

**RESOLUTION
TOWNSHIP OF HOWELL PLANNING BOARD
RESOLUTION OF MEMORIALIZATION
MONMOUTH COUNTY, NEW JERSEY
PRELIMINARY AND FINAL SITE PLAN APPROVAL WITH
ANCILLARY VARIANCE AND DESIGN WAIVER RELIEF**

**Approved: March 16, 2023
Memorialized: April 13, 2023**

**IN THE MATTER OF: AAFRHW PROPERTY, LLC
APPLICATION NO. SP-1095**

WHEREAS, an application for preliminary and final site plan approval along with ancillary variance and design waiver relief has been made to the Howell Township Planning Board (hereinafter referred to as the “Board”) by AAFRHW Property, LLC (hereinafter referred to as the “Applicant”) on lands known and designated as Block 177, Lot 8.01, as depicted on the Tax Map of the Township of Howell (hereinafter “Township”), and more commonly known as 375 Fairfield Road in the SED (Special Economic Development) Zone; and

WHEREAS, remote public hearings were held before the Board on February 2, 2023 and March 16, 2023, with regard to this application; and

WHEREAS, the Board has heard testimony and comments from the Applicant, witnesses and consultants, and with the public having had an opportunity to be heard; and

WHEREAS, a complete application has been filed, the fees as required by Township Ordinance have been paid, and it otherwise appears that the jurisdiction and powers of the Board have been properly invoked and exercised.

NOW, THEREFORE, does the Howell Township Planning Board make the following findings of fact and conclusions of law with regard to this application:

1. The subject Property contains 45.2 acres and is located within an SED Zone District and contains 1,643 feet of frontage along the east side of Fairfield Road, approximately 1,000 feet

south of Route 33. The subject Property is currently improved with a one-story dwelling within the northwest corner of the parcel. A large portion of the subject Property consists of open fields, primarily along the Fairfield Road frontage, while the back portion along the east side of the parcel is undeveloped and wooded. A large portion of the subject Property also contains freshwater wetlands. Public water and sanitary sewer are not available to the subject Property.

2. The Applicant proposes to remove the existing one-story dwelling and develop the subject Property by constructing two (2) one-story warehouse buildings with office space. Proposed Warehouse A totals 369,242 square feet in size, consisting of 349,242 square feet of warehouse space and 20,000 square feet of office space. Proposed Warehouse A will also have 50 loading bays, 2 drive-in bays, 137 vehicle parking spaces (9 of which are electric vehicle charging stations) and 30 tractor trailer parking spaces. Proposed Warehouse B totals 134,714 square feet in size, consisting of 124,714 square feet of warehouse space and 10,000 square feet of office space. Warehouse B will also have 32 loading bays, 2 drive-in bays, 58 vehicle parking spaces (4 of which are electric vehicle charging stations) and does not provide additional tractor trailer parking. Access to the site is provided by two (2) full movement driveways along Fairfield Road. Full vehicle circulation is provided around both buildings. A 53,203 square foot right-of-way dedication to Howell Township is proposed along the entire Fairfield Road frontage to provide a 33-foot half width. Additional site improvements consist of lighting, landscaping, and stormwater management systems. The Applicant proposes to have public water and sanitary sewer mains extended along the frontage of Fairfield Road, and utility connections will be made in front of the subject Property.

February 2, 2023 Hearing

3. Counsel for the Applicant, Craig Gianetti, Esq., stated that the Applicant was seeking site plan approval to permit a warehouse development along with design waiver relief for driveway width and tree replacement. Mr. Gianetti stated that the proposed driveways were thirty (30) feet wide.

4. Testimony was taken from Jeromie Lange, who identified himself as Director of Operations of Active Acquisitions, the parent company of the Applicant. Mr. Lange testified that proposed Building A would house up to four (4) tenants. He stated that Building A would have four (4) office spaces of less than 5,000 square feet each. Mr. Lange testified that proposed Building B would house up to two (2) tenants. He further explained that the warehouses could be 24/7 operations, but stated that the third shift would be light, primarily operating as maintenance and/or receiving.

5. Mr. Lange further testified that the subject Property was 1,000 feet from Route 33. He stated that two (2) full movement driveways were proposed for cars and trucks. Mr. Lange stated that parking spaces were proposed for each building. Mr. Lange explained that trucks preferred to circulate in a counterclockwise rotation so the driver could more easily back into the loading docks. He stated that trucks travelling to Building B would use the northern driveway.

6. Mr. Lange also stated that four (4) trash compactors were proposed on-site, one (1) at each end of the loading docks. He testified that recycling was stored internal to the buildings. Mr. Lange then explained that recycling would be rolled out of the building at time of pick up.

7. Mr. Lange next testified that the Applicant had made improvements to intersection of Fairfield Road and Route 33 per NJDOT standards as part of another application. He further stated that water and sewer lines were being extended down Fairfield Road to the site as part of another application. He expected the work on the water and sewer to be completed in Spring of 2023.

8. Mr. Lange noted that the application was conforming except for four (4) items. He stated that the lighting plan submitted was fully conforming to the Ordinance, however, the Applicant would prefer an alternative lighting plan that complied with the Illumination Engineering Society (IES) standards for warehouses, which was not conforming to the ordinance and would require design waiver relief.

9. Mr. Lange next testified that the proposed landscaping around the buildings was compliant except for along the side of the buildings in the area of the loading dock. He explained that any landscaping along that side of the building would only be seen by truck drivers and would be at the rear of the buildings, and would be four (4) feet below grade. Mr. Lange stated that the landscaping would not serve its intended purpose, but the Applicant would provide that landscaping if the Board preferred.

10. Mr. Lange also stated that the Applicant was seeking design waiver relief for the replacement trees. Mr. Lange explained that the Applicant was proposing to remove 879 trees, which would require replacement of 1,990 trees. He stated that the Applicant would install 927 trees on-site, but that it would still leave a deficit of 1,063 trees. Mr. Lange testified that the Applicant would plant the remaining required trees elsewhere within the Township or make a financial contribution.

11. Mr. Lange continued his testimony stating that the Applicant had proposed two (2) façades. He explained that one (1) façade was compliant with undulation requirements, and a second façade was more functional for the interior use of the warehouse. After some discussion between Mr. Lange and the Board Planner, Mr. Lange recognized that the Applicant and the Board Planner had agreed during technical review to use the compliant façade. Mr. Lange, therefore, corrected his earlier testimony that the Applicant was only seeking three (3) design waivers, not four (4).

12. In response to questions from the Board, Mr. Lange testified that the only flammable material stored on site would be cleaning products.

13. The Applicant's Engineer, Tung-to Lam, P.E. introduced an Aerial photograph dated January 7, 2023 as Exhibit A-57. Mr. Lam next introduced a Street Perspective rendering as Exhibit A-62. He stated that Exhibit A-62 depicted the southeast corner of the Building A with the trees and landscaping at the time of planting and page 2 depicted the same southeast corner, but with the trees and landscaping at their mature height in 10-15 years. Mr. Lam next introduced a Rendered Site Plan as Exhibit A-58.

14. Mr. Lam next testified that the subject Property contained 43.93 acres with frontage on Fairfield Road. He stated that the Applicant would be dedicating 1.22 acres along the frontage of the subject Property for roadway expansion. Mr. Lam stated that the subject Property was located within the SED Zone. He explained that the New Jersey Natural Gas (NJNG) facility was located to the south of the subject Property. He then stated that the area to the east was wooded. Mr. Lam further stated that the Rock Solid development site, which was presently under construction was located to the west across Fairfield Road. Mr. Lam further testified that the subject Property was 50% wooded and 50% farmland and was developed with one (1) structure, which was a dilapidated residential structure with a footprint of 1,410 square feet.

15. Mr. Lam further stated that the Applicant was proposing to construct two (2) warehouse buildings with office spaces. He stated that the individual office spaces would contain no more than 5,000 square feet each. Mr. Lam testified that proposed Building A contained 369,242 square feet total and that proposed Building B contained 134,714 square feet. He stated that both buildings had consistent features, parking, loading docks, and utilities.

16. Mr. Lam next testified that the stormwater naturally drained from the subject Property in two (2) directions. He stated that the Applicant would import soil to separate the stormwater runoff and wetlands. He stated stormwater runoff would mimic the existing flow. Mr. Lam then explained that the Applicant would comply with the stormwater comments in the Board Engineer's Report. He also stated that the stormwater management system would comply with all NJDEP, Township, and Monmouth County regulations. Mr. Lam then stated that the stormwater management system included underground and above ground basins. He stated that the runoff from the roof did not need to be filtered because it was considered clean pursuant to NJDEP regulations. Mr. Lam stated that the stormwater management system would be privately owned and maintained by the property owner. He stated that the maintenance manual would be recorded with the deed.

17. Mr. Lam next testified that the Applicant was working with New Jersey American Water on extending the water main down Fairfield Road to the building and fire water tank. Mr. Lam testified that a 140,000 gallon fire water tank was proposed on site. He stated that the fire water tank was 20'x24' and no taller than twenty-five (25) feet. Mr. Lam further testified that the sewer line would connect to the Rock Solid development across Fairfield Road. He stated that the sewer application would be reviewed by the Township and Manasquan River Regional Sewerage Authority.

18. Mr. Lam then stated that two (2) access driveways were proposed. He testified that parking for passenger cars would be located on the western side of Building A and on the western and eastern sides of Building B. Mr. Lam also stated that loading docks would be located on the eastern side of Building A and on the southern side of Building B. He explained that there was a thirty (30) foot wide ring road around the buildings. Mr. Lam testified that the width allowed tractor trailers to enter and exit simultaneously. He also stated that the Fire Official had reviewed the circulation plan and had no comment. Mr. Lam further testified that the drive aisle throughout the site was thirty

(30) feet wide as well as the drive aisle for passenger car parking at Building A. He stated that the drive aisles for the passenger car parking at Building B were twenty-five (25) feet wide. He stated that the loading dock drive aisles were seventy (70) feet wide to allow tractor trailers to back in and pull out of the loading docks.

19. Mr. Lam further testified that a total of eighty-two (82) loading docks; fifty (50) at Building A, and thirty-two (32) at Building B were proposed. He also stated that there were thirty (30) tractor trailer storage parking spaces opposite the loading docks of Building A. He stated that 137 passenger car parking spaces were proposed for Building A which included eight (8) ADA compliant spaces and nine (9) EV charging spaces. He then stated that twenty-nine (29) passenger car parking spaces would be located on the western side of Building B. Twenty-nine (29) spaces would be located on the eastern side of Building B, which included two (2) ADA compliant parking spaces and two (2) EV charging spaces on each side of Building B. Mr. Lam further testified that the parking spaces complied with Township Ordinance requirements. He stated that the Ordinance required thirty (30) foot wide drive aisles for commercial uses.

20. Mr. Lam next testified that the lighting plan was compliant with Ordinance requirements, however, the Applicant preferred an alternative plan. Mr. Lam explained that the initial lighting plan complied with the Township Ordinance but did not meet the IES standards. He stated that the IES standard required ten (10) footcandles at the loading docks at a ratio of 5:1. Mr. Lam stated that the IES compliant lighting plan was brighter and would require design waiver relief. He also stated that the Ordinance required a maximum average of 0.5 footcandles, whereas the IES lighting plan had an average of 3.07 footcandles. Mr. Lam testified that the IES lighting plan was more appropriate for a warehouse. Mr. Lam testified that the Applicant was willing to do either plan.

21. Mr. Lam further noted that the lights would be mounted on twenty-four (24) foot tall poles. He stated that the lights were recessed and shielded and used LED bulbs on the Ordinance compliant plan, but there were no shields provided on the IES compliant plan. Mr. Lam testified that there would not be any light spillage. He stated that the lighting would be dimmed at night when the site was not active.

22. Mr. Lam next testified that the landscaping plan consisted of twenty-three (23) acres. He stated that the plan was compliant with the fifty (50) foot buffer and farm buffer. Mr. Lam explained that the Applicant would work with the Board's Certified Tree Expert on increasing the buffers. Mr. Lam further testified that landscaping was not proposed along the loading docks as previously testified and agreed to.

23. Mr. Lam further explained that the Applicant was proposing one (1) monument sign near the northern driveway. He stated that the sign would be 9'x3' and that the Ordinance permitted monument signs up to 12'x3'. Mr. Lam further testified that the trash enclosures were adjacent to the drive-up ramps of the loading docks. He stated that the trash enclosures contained trash compactors.

24. Mr. Lam next testified that the Applicant had obtained Monmouth County Planning Board approval in December 2021. He stated that the Applicant also obtained approval from Freehold Soil Conservation District. Mr. Lam testified that water was under review, including the fire tank. He stated that sewer was also under review. Mr. Lam then explained that NJDEP had no specific comments regarding the wetlands delineation. He stated that the Environmental Commission had reviewed the application and that the Applicant would address its comments. Mr. Lam further stated that the Fire Official reviewed the application in June 2022 and had no comment. Mr. Lam also testified that the Applicant would comply with the technical comments of the Board Engineer's Report dated January 20, 2023.

25. In response to questions from the Board, Mr. Lam testified that the fire tank was necessary. He stated that the fire tank was twenty-five (25) feet tall and thirty-six (36) feet wide in diameter. Mr. Lam explained that the fire tank was screened by trees and landscaping. He stated that the trees would be less than twenty-five (25) feet tall. He also testified that the Fire Official had reviewed the plan of the fire tank.

26. In response to questions from the Board Engineer, Mr. Lam stated that the traffic engineer would address concerns regarding the overlap circulation points for a WB67 truck. Mr. Lam also stated that the Rock Solid development was located across the road and the future Stavola site located next to the Rock Solid site would have four (4) driveways accessing Fairfield Road. Mr. Lam testified that the travel lanes would be twelve (12) feet wide, with an eight (8) foot shoulder, five (5) feet of grass, then five (5) feet of sidewalk for a total half width of thirty-two (32) feet. Mr. Lam testified that the existing width of the entire road was 22.4 feet.

27. In response to questions from the Board Certified Tree Expert, Mr. Lam confirmed that all of the trees would be cleared during Phase 1 of construction. He stated that the replacement trees around Building A would be planted during Phase 1 and then the replacement trees around Building B would be planted during Phase 2.

28. In response to questions from the Board, Mr. Lange, testified that a restoration bond would be executed with the Township for the trees. He stated that the Applicant would replant the trees removed if Phase 2 is not constructed. After some discussion amongst the Board, Board professionals, and Mr. Lange, it was agreed that there would be two (2) bonds, one (1) for restoration of the trees, and one (1) for replacement of the trees.

29. In response to questions from the Board, Mr. Lam stated that the traffic engineer would provide testimony regarding any restrictions on Fairfield Road. Mr. Lam also testified that the

two (2) NJDEP cases regarding underground oil tanks would be closed with the construction team and the general contractor. He stated that a Phase I Environmental Study had been performed.

30. In response to follow up questions from the Board Attorney regarding the open NJDEP cases, Mr. Lange testified that there was a survey of the subject Property with the objective to find underground tanks or any spillage. He stated that the survey did not find any underground tanks or spillage. Mr. Lange explained that a residential dwelling structure was still on the subject Property, so the people conducting the survey knew the possible location of the underground tanks would be near the dwelling. Mr. Lange testified that if the construction crews found any tanks, they would know to contact NJDEP.

31. In response to further questions from the Board Planner, Mr. Lange testified that the survey was conducted by testing the soil. He stated that the Applicant agreed to a condition of approval to close the 1996 and 1998 NJDEP cases. He stated that the open cases were an administrative issue. Mr. Lange also testified that there were 55-gallon drums found on the subject Property and were removed. He stated that a Licensed Site Remediation Professional (LSRP) was not necessary.

32. In response to further questions from the Board, Mr. Lam stated that bollards were being provided.

33. In response to further questions from the Board, Mr. Lam testified that there was not a stream near the rear of the subject Property. He explained that there were only wetlands and bogs. Mr. Lange stated that stream corridor buffers were not required. Mr. Lam further testified that wetlands were located on the northern side of the subject Property. He stated that the Applicant had obtained a delineation for wetlands from NJDEP. Mr. Lam testified that the wetlands were not being disturbed during construction.

34. The Applicant's Traffic Engineer, Dan Disario, P.E., PTOE, testified that he had performed a Traffic Impact Study dated November 1, 2021. Mr. Disario explained that he studied the existing traffic volume on Tuesday, October 5, 2021 between 6am and 10am, then later between 2pm and 6pm. He explained that he chose these hours in order to capture school bus traffic and not just commuter traffic. Mr. Disario stated that the data was collected from Fairfield Road's intersections with Park Avenue (Route 33 Business) at the north to its intersection with Adelpia-Farmingdale Road at the south, and all intersections in between. He then testified that the peak morning hour was found to be 7:30am to 8:30am and the peak evening hour was found to be 4:30pm to 5:30pm.

35. Mr. Disario further explained that the COVID-19 pandemic had reduced overall traffic, so the study considered historic data. Mr. Disario testified that NJDOT had collected data in 2013 and 2016 in development of off/on ramps for Fairfield Road and Route 33 and Route 33 Business. He explained that the traffic count from 2021 was increased to reflect the historic data. Mr. Disario also stated that he examined traffic data from 2018 and 2019, which were collected as part of the Rock Solid development across Fairfield Road. Mr. Disario testified that the data from 2018 and 2019 were consistent with the adjusted 2021 traffic count.

36. Mr. Disario further explained that he then applied background growth to the 2021 traffic count to bring the count up to 2023 design year. He stated that background growth accounted for the increase in traffic generated by local and regional development. Mr. Disario testified that there were four (4) other local developments, which were added to the 2023 traffic count: Howell Road, Blackrock, Rock Solid, and NJNG.

37. Mr. Disario next testified that the traffic generation for the proposed warehouses was based upon the Institute of Transportation Engineers (ITE) 11th Edition Trip Generation Manual. He explained that the ITE manual definition of traditional warehouse was based on an older style of

warehouse. He stated that traditional warehouses did not have modern mechanics and were labor intensive. Mr. Disario stated that the Applicant was proposing a modern “high cube” warehouse, which has been the standard design of warehouse for the past 10-15 years. He stated that “high cube” warehouses required less labor, and therefore, less employees to generate traffic. Mr. Disario, however, explained that the ITE did not distinguish traditional warehouses from “high cube” warehouses, so he used the traditional warehouse trip rates, which was designated as Code 150 in the ITE manual. Mr. Disario testified that the reality of the trip generation would be less than his traffic study.

38. Mr. Disario next testified in regard to the trip generation. He stated that the morning peak hour would generate sixty-five (65) passenger car trips in and thirty (30) passenger car trips out for a total of ninety-five (95) passenger car trips in the morning peak hour. He then stated that the morning peak hour would generate five (5) trucks in and five (5) trucks out for a total of ten (10) truck trips during the morning peak hour. The total trip generation during the morning peak hour was, therefore, seventy (70) trips in and thirty-five (35) trips out for a total of 105 trips generated during the morning peak hour.

39. Mr. Disario further explained that the evening peak hour would generate twenty (20) passenger car trips in and eighty (80) passenger car trips out for a total of 100 passenger car trips in the evening peak hour. He stated that the evening peak hour would generate eight (8) truck trips in and eight (8) truck trips out for a total of sixteen (16) truck trips during the evening peak hour. The total trip generation during the evening peak hour would therefore be twenty-eight (28) trips in and eighty-eight (88) trips out for a total of 116 trips generated during the evening peak hour.

40. Mr. Disario testified that NJDOT designates any development that generates less than 100 trips during any peak hour as not having a significant impact. He further testified that since the

proposed development generated more than 100 trips in the morning and evening peak hours, it would be considered significant under NJDOT standards. Mr. Disario, however, argued that the trip generation in excess of 100 trips was not significantly more than the 100-trip threshold. He stated that there would not be significant change to the traffic in the area.

41. Mr. Disario then explained that the total number of trips generated from the site during a 24-hour period would be 280 passenger cars in and 280 passenger cars out for a total of 560 passenger cars over 24-hours. He stated that the trips generated during a 24-hour period would be 150 trucks in and 150 trucks out for a total of 300 trucks per a 24-hour period. Therefore, the total number of trips generated over a 24-hour period would be 860 total trips.

42. Mr. Disario next testified that the trip generation calculated was higher than the expected reality, especially for truck traffic. He explained that loading dock turnover was typically once or twice daily. Mr. Disario then stated that with a total of eighty-two (82) loading docks, the expected number of trucks would be between eighty-two (82) and 164 trucks per a day.

43. Mr. Disario further stated that he observed other existing warehouses in New Jersey and found the trip generation to be less than the ITE manual. He explained that single loading buildings had loading docks on only one side, which limited the frequency of turnover because goods had to be brought from one side of the building to the other. Mr. Disario provided an example of a warehouse he observed in Mansfield, NJ. He explained that the location in Mansfield, NJ contained two (2) warehouse buildings for a total of 960,000 square feet and that one (1) of the buildings was double loaded (loading docks on two (2) sides). He explained that the Mansfield, NJ location had 144 loading docks, but generated a total of 121 passenger cars in/out and fifty-two (52) trucks in/out during a 24-hour period. Mr. Disario then stated that the Mansfield location had a loading dock turnover rate

of 0.73 trucks per a day. Mr. Disario further testified that the Mansfield location was consistent with the Applicant's expectations of this proposal.

44. Mr. Disario further testified that the proposed warehouses were small in relation to industry expectations. He explained that warehouses with less than 450,000 square feet were small, warehouses between 450,000 square feet and 750,000 square feet were medium sized, and warehouses greater than 750,000 square feet were large. Mr. Disario further testified that the proposed warehouses could have multiple tenants, which would not generate a lot of activity compared to larger warehouses.

45. Mr. Disario next testified that the truck traffic would exit the site and travel north a short distance on Fairfield Road to Route 33. He further stated that he studied the population of the area to determine the likelihood of where the employees would be travelling from to get to the site. He stated that 80% of employee passenger car traffic would come from the north from Route 33 and 20% of employee passenger car traffic would come from the south, most likely Adelphia-Farmingdale Road. Mr. Disario further testified that he had added the employee passenger car traffic to the 2023 volume and found that there would only be one (1) additional trip per a minute from either direction during peak hours, which he stated was not significant per the highway capacity manual.

46. Mr. Disario also explained that he examined the existing intersections along Fairfield Road from Route 33 Business to Adelphia-Farmingdale Road. He testified that the southbound left turn from Fairfield Road to Adelphia-Farmingdale Road experiences delay during the evening peak hour. He testified that to resolve the issue, the Applicant was willing to adjust the traffic light timing if Monmouth County were amenable. Mr. Disario further testified that there were no issues with the remaining intersections.

47. Mr. Disario next testified that the proposed driveways were safe and efficient. He stated that the driveways were revised in response to comments from the Board Professionals. Mr. Disario also testified that the Fire Official found the driveways to be acceptable. He also stated that the parking complied with Township Ordinance requirements and was sufficient. He stated that the circulation was also efficient.

48. Mr. Disario next testified that the Board Engineer had a concern regarding the circulation drive aisle near the northeast corner of Building B. He stated that the drive aisle was thirty (30) feet wide, but there could be some overlap for tractor trailers in the area. He testified that the drive aisle was a typical design and had clear sight lines. Mr. Disario explained that the Board Engineer had a similar concern for the drive aisle near the southeast corner of Building A. He stated that the Applicant could make the drive aisles in these areas one-way in the counterclockwise direction that truck drivers prefer.

49. Mr. Disario next testified that the Applicant was proposing to widen Fairfield Road along its frontage to mirror the widening done by Rock Solid across the road. He explained that the travel lanes would be twelve (12) feet wide with a ten (10) foot shoulder. Mr. Disario stated that the widening would accommodate all traffic and provide space for traffic to bypass vehicles turning left into the site. Mr. Disario concluded that the overall traffic circulation design was safe and efficient.

50. In response to questions from the Board Traffic Engineer, Mr. Disario testified that the Level of Service (LOS) for the egress driveways were LOS "B," which would be a 11.1 to 13.5 second delay.

51. In response to questions from the Board, Mr. Disario testified that he based his traffic and circulation analysis on tractor trailers, but box trucks may use the site as well, depending on the tenants. He further stated that he did not specifically analyze truck traffic for Bennett Road. Mr.

Disario explained that trucks could travel south on Fairfield Road to Bennett Road, but he stated that it was unlikely because Route 33 was the better route for trucks. Mr. Disario also testified that the Applicant was seeking approval for 24/7 operation, but whether the warehouses actually operated 24/7 would be dependent on the tenants.

52. In response to further questions from the Board, Mr. Disario testified that the proposed improvements to Fairfield Road were not required for the maneuverability of tractor trailers from the driveway to Fairfield Road. He explained that driveways could always be designed to accommodate tractor trailer turning radii. He stated that the Applicant was widening Fairfield Road because it was a better design and that the Township also requested the roadway be widened. Mr. Disario also testified that there were no turn prohibitions proposed, but the Applicant would be willing to put them in place if the Board preferred.

53. In response to question from the Board Engineer, Mr. Disario testified that the Applicant would agree to place "No Left Turn" signs for tractor trailers near the exit driveways in order to direct all tractor trailer traffic toward Route 33.

54. The Board Engineer further asked how a one-way circulation would work in order to address the concerns associated with the drive aisles at the southeast corner of Building A and the northeast corner of Building B. Mr. Disario described some possible ways the circulation could be modified to create a one-way circulation. The Board also expressed concerns on how tractor trailers travelling to Building B would circulate the site if it were to mistakenly enter at the southern driveway. The Board, Board professionals, Mr. Disario, and Mr. Lange agreed for the Applicant to revise the circulation plan to address the concerns and provide it to the Board to better visualize how the circulation issues would be addressed.

March 16, 2023 Hearing

55. Counsel for the Applicant, Craig Gianetti, Esq., provided a brief overview of the application. He stated that at the previous hearing, the Board expressed concerns regarding internal circulation. Mr. Gianetti stated that a revised internal circulation plan was submitted and marked as Exhibit A-66.

56. Mr. Lange testified in regard to the directional sign at the northern driveway. He stated that there would be a sign facing internally prohibiting left turns onto Fairfield Road. Mr. Lange explained that there would also be a way finding sign facing externally to direct truck drivers to use that driveway to access Building B.

57. Mr. Lange next testified that the internal drive aisle had been revised to take into account a truck driver traveling to Building B mistakenly using the southern driveway. Mr. Lange explained that the landscaped island center to the site had been pulled back and three (3) trailer storage spaces had been removed to provide sufficient space for a tractor trailer to make a right turn toward Building B from the truck court of Building A without impacting trucks entering the truck court of Building A.

58. Mr. Lange next testified in regard to the southern driveway. He stated that the signage would mirror the signage at the northern driveway. He stated that there would be a way finding sign for Building A and left turn prohibition sign.

59. Mr. Lange also addressed the curve of the drive aisle south of Building A. He stated that the drive aisle had been widened at the curve in order to allow sufficient space for WB-67 trucks to pass each one another. Mr. Lange testified that the widening of the curve did not interfere with the buffers, however, the stormwater basin would have to be adjusted. He stated that the Applicant would

agree to provide a revised plan for the stormwater basin. He testified that the revised stormwater basin would still comply with ordinances and state regulations.

60. Mr. Lange next testified in regard to the curve of the drive aisle at the northeast corner of Building B. He stated that the Board had expressed a similar concern regarding this curve south of Building A. Mr. Lange testified that the drive aisle had been similarly widened. He stated that widening the drive aisle required moving the retaining wall near the wetlands. He also stated that three (3) passenger car parking spaces were shifted toward the south in the parking lot.

61. Mr. Lange next testified in regard to the trees surrounding the fire tank. He stated that the tree species would be Black Gum, Basswood, Pin Oak, Red Maple, and American Hornbeam.

62. Mr. Lange also stated that the buildings would use green designs and would be solar panel ready. He stated that HVAC mechanicals would be setback sixty (60) feet from the edge of the roof, so the parapets and the height of the building would screen the mechanical equipment from view from the roadway. Mr. Lange further testified that the site would comply with all other ordinances and regulations, including for noise.

63. The Board Engineer recommended that the Applicant be granted a design waiver for the lighting to use the IES compliant lighting plan. She stated that she was also satisfied with the modifications to the internal circulation. She also recommended that the Applicant be granted a design waiver from planting foundation landscaping along the loading docks. The Board Engineer also stated that the Applicant would require a design waiver to contribute to the Township Tree Fund. She asked if the Applicant would comply with the minor technical comments, which Mr. Lange confirmed that the Applicant would comply.

64. The Board Traffic Engineer asked for clarification on the location of the signs on the site plan. Mr. Lange testified that they were depicted on Exhibit A-66.

65. The hearing was then opened to the public, at which time Mary Jean Sepulveda, 42 Desai Court, asked how many acres of trees would be removed with this development. Mr. Lam calculated that the number of trees to be removed amounted to 12.47 acres.

66. Ms. Sepulveda next asked what the hours of operation were. Mr. Lange responded stating that the buildings were designed to be 24/7 operation, but the actual hours of operation would depend on the tenant, which was unknown at this time. He explained that typically, the first shift was the most intense, and that second and third shifts typically were for maintenance and janitorial services. He stated that 24/7 operation was not unusual for a warehouse.

67. Ms. Sepulveda next stated that the parent company of the Applicant had multiple subsidiary warehouses in the area and was concerned that the traffic studies for each application did not consider the traffic impact of all the warehouses cumulatively. She stated that she was also concerned that the traffic data from 2021 was outdated. In response, Mr. Disario testified that his traffic impact study accounted for the increased traffic volume from all of the existing, developing, and proposed warehouses in the area. He reiterated that this site would generate a total of 105 trips during the morning peak hour and 116 trips during the evening peak hour. He stated that all the intersections in the study area still functioned with the increased volume.

68. Ms. Sepulveda further asked where trucks would park while waiting for an available loading dock. She questioned if the environmental impact study would be the same for a 24/7 operation. She also asked if the wetlands were depicted on the site plan and asked about NJDEP permits. In response, Mr. Lange stated that NJDEP had issued a LOI and that the permit was pending. He also stated that the wetlands were depicted on the site plan.

69. Ms. Sepulveda next asked if any air pollution and noise pollution studies were performed because she was already concerned with the existing noise from Route 33. Mr. Gianetti

stated that the Applicant would have to comply with the state regulations on noise. Mr. Lange added that the trucks were compliant with state and federal regulations on noise and emissions. Ms. Sepulveda asked for details regarding the Noise Ordinance. The Board Planner explained that the state did not permit perpetual noise to exceed 65db during the daytime and not to exceed 50db during the nighttime. The Board Planner stated that everyone, not just commercial uses, had to comply with the state noise ordinance.

70. Ms. Sepulveda next asked how the proposal complied with the Master Plan goal of conservation. The Board Planner explained that the subject Property was not marked for preservation, and it was privately owned, therefore it could be developed. Mr. Gianetti also represented that no changes were being made to the wetlands or wetlands buffers. He also stated that the Applicant would be contributing to the Township Tree Fund in lieu of replacing trees. Ms. Sepulveda asked how the Township spends the funds in the Township Tree Fund, which she was informed that it was up to the Governing Body and not the Planning Board.

71. Ms. Sepulveda next asked if there were noise buffers provided. The Board Planner explained that the purpose of the buffers was to separate uses, not to block noise. The Board Planner stated that the Applicant was not seeking any relief from the buffer requirement. Ms. Sepulveda asked if the Applicant would consider a noise buffer. Mr. Gianetti represented that the Applicant was not providing any extra buffer beyond what was required. He stated that the Applicant had proposed a permitted use and was not seeking any variance relief.

72. For the benefit of the public, the Board asked the Board Attorney to explain the Planning Board's jurisdiction in regard to traffic. The Board Attorney explained that the New Jersey Courts have ruled that an increase in volume of traffic alone was not sufficient grounds for a Planning Board to deny an application. He explained that when the Governing Body chose to zone the area for

the proposed use, it is assumed that it considered the traffic volume of such uses. He stated that the Planning Board could consider the safety of ingress and egress of the site.

73. Ms. Sepulveda asked for the Board to reconsider the application. She stated that she was concerned that the warehouses in the area could collectively become a distribution center. She also stated that she was disappointed that warehouses were permitted in the area.

74. Mike Attanasio, 19 Woodstown Drive, testified that he was concerned with traffic and he believed that the traffic volume from all of the warehouses in the area should be considered cumulatively. He also stated that he was concerned with noise from the site day and night. Mr. Attanasio asked if the renovation of the railroad tracks in the area would have any effect of the Traffic Impact Statement (TIS). Mr. Disario testified in regard to tractor trailer use on site, but not railroad use. Mr. Disario stated that he did not analyze railroad crossings in his TIS and that it was not customary to study railroad crossings. Mr. Disario further stated that the truck traffic was being directed north of the site toward Route 33, whereas the railroad crossing was south of the site, therefore it would not have any effect. The Board Traffic Engineer concurred with Mr. Disario in regard to the railroad crossing impact and the study of railroad crossings.

75. Mr. Attanasio next asked what would be stored on site and if it would be inside. Mr. Lange confirmed that any storage would be inside. Mr. Lange further stated that hazardous materials would be excluded from being stored on site. He also stated that the buildings were not designed for any cold storage. Mr. Lange also stated that some materials that may be stored could be dry goods, paper products, or electronics. Mr. Attanasio expressed his concern with all storage in the area. In response to Mr. Attanasio's concern, the Board Attorney stated that the Applicant would have to comply with all County and State regulations regarding storage with which Mr. Gianetti concurred.

76. Mr. Attanaio further asked why warehouses were permitted in the area and what the benefit to the public was for warehouse. In response, the Board Attorney explained the Board's role as determined by the New Jersey Courts. He stated that the Board's jurisdiction was tightly circumscribed and limited to determining if the proposal complied with Ordinance requirements and whether variance and waiver relief should be granted. The Board Attorney stated that it was not the Board's jurisdiction to determine whether it likes the proposal or not.

77. Sabrina Reutter, 276 Fairfield Road, testified that there was existing noise from truck traffic in the area. Ms. Reutter asked how the left turn prohibition would be enforced. Mr. Gianetti, in response, stated that there would be signage informing truck drivers of the prohibition and it would be enforced by Township law enforcement and code enforcement. In response to a follow up question from Ms. Reutter, Mr. Gianetti confirmed that there was no directional curbing provided. Mr. Lange further stated that the Applicant would grant Title 39 powers to the Township. He also stated that the ease of travelling toward Route 33 would attract truck drivers to make the right instead of the left. Ms. Reutter further expressed her concern with traffic safety of schools in the area. Ms. Reutter asked for the Board to deny all warehouse applications.

78. Stephen Mirabello, 2 Flintlock Drive, asked if the most recent environmental investigation was September 22, 2022. Mr. Lange testified that a more recent environmental investigation had taken place. Mr. Lange testified that the Applicant would retain a Licensed Site Remediation Professional (LSRP) to satisfy the environmental concerns. Mr. Mirabello next asked if there was an Area of Concern (AOC) identified for the drums found on-site and if the drums were evaluated. Mr. Lange testified that the drums were evaluated and were found to be plastic drums that were used as floats for irrigation intake. He stated that the drums were disposed of properly. In response to a follow-up question from Mr. Mirabello, Mr. Lange testified that the documents

regarding the drums would be filed with the NJDEP and were available to the public through the NJDEP.

79. Juliana Alcaraz, 353 Fairfield Road, expressed her concern with traffic on Fairfield Road because her children's school bus stop was close to the road. Ms. Alcaraz testified that she and her husband operated a small farm with beehives. She stated that as a result of the development of the nearby New Jersey Natural Gas facility just north of the subject Property, wildlife had been shifted toward her property and had been causing damage to her crops. Ms. Alcaraz further testified that the current condition of the Fairfield Road was patched and rough as a result of construction traffic. Ms. Alcaraz stated that she understood that the Board could not deny the application because of traffic volume.

80. Janis Romisoukas, 314 Baker Road, stated that she agreed with the concerns expressed by her neighbors. Ms. Romisoukas expressed her concern with noise from the site and asked why the Applicant could not provide additional buffers. Mr. Gianetti, in response, stated that the proposal was compliant with the Ordinance and State regulations in regard to noise. He stated that the subject Property was also located within an industrial zone. The Board Planner advised that the Board could not require the Applicant to provide a sound barrier, but asked if the Applicant would consider providing such a sound barrier.

81. In response to the concerns from the public regarding noise, Mr. Lange testified that the Applicant was willing to provide a sound barrier, however, it would require some bulk variance relief. Mr. Lange testified that a sound barrier would be constructed on top of the berm for a total height of fifteen (15) feet. He stated that the sound barrier would run along the southern property line, around the drive aisle curve and east of the truck court of Building A. Mr. Lange further stated that

some grading and the wall would be within the tree buffer, which would require variance relief. The Board Planner recommended that the Board grant such variance relief.

82. Ms. Romisoukas further asked if there would be any fencing provided along the perimeter of the subject Property. Mr. Lange stated that no fences were being proposed. The Board Planner stated that the residential properties adjacent to the subject Property could erect their own fences if desired. Ms. Romisoukas further asked if the lighting would shine to adjacent properties. Mr. Lange testified that there would not be any spillage with either lighting plan. Ms. Romisoukas further expressed concern about Bald Eagle habitats in the area. The Board Planner explained that wildlife habitats were the jurisdiction of the NJDEP, not the Township. The Board Planner explained that if NJDEP were concerned with the wildlife habitat, it would require a 150-foot buffer. Mr. Lange confirmed that NJDEP has required the Applicant to provide a 150-foot buffer to the wetlands adjacent to the subject Property.

83. Tom Romisoukas, 314 Baker Road, testified that he had observed the individual testing the wetlands and spoke with the individual. Mr. Romisoukas stated that the individual expressed concerns about the results of the testing. The Board Planner explained that the individual testing did not have authority to make any determination, rather it was the NJDEP's authority to make such determination. The Board Planner explained that the NJDEP has issued an LOI expressing no concerns with the wetlands. The Board Attorney also explained that the NJDEP has required the Applicant to provide a buffer to the wetlands and that the Board did not have authority to overrule the NJDEP. Mr. Lange also testified in response that the wetlands were located just off of the eastern property line and a fifty (50) foot buffer was provided. Mr. Romisoukas further asked if the pond at the rear of the house would be disturbed. Mr. Lange testified that the pond was to remain and it would not be disturbed.

84. Mr. Romisoukas further expressed his concern that the TIS was outdated. Mr. Romisoukas also expressed concern with the existing warehouse across Fairfield Road being for sale and who the owner was. Mr. Gianetti stated that ownership of a subject Property was not relevant to a site plan application. He stated that the site plan was designed as a warehouse and could only be used as a warehouse because the design did not lend itself to any other uses.

85. Mr. Romisoukas further asked if there would be a berm with the sound wall and if it would block headlight glare. Mr. Lange testified that the berm would remain with the wall. He stated that the details would be worked out with the Board professionals to preserve as many trees on both sides of the wall as possible. The Board Planner stated that the berm itself would block headlight glare.

86. Mr. Romisoukas further expressed his concern that planting young, small trees were insufficient to screen the buildings. The Board Tree Expert explained that planting mature trees were not possible. She explained that younger trees would establish themselves better than mature trees. She stated that mature trees would end up dying because of their inability to establish themselves in new soil. In response to a follow up question, the Board Tree Expert stated that the trees of the buffer would be four season evergreens.

87. Mr. Romisoukas also asked if the development could be shifted farther north on the subject Property to reduce noise to his property. Mr. Romisoukas also stated that he believed the driveways should be designed so trucks would be forced to make a right turn. Mr. Lange testified that creating such a driveway would be a concern for emergency vehicle access. However, Mr. Lange testified that the Applicant would agree to work with the Board professionals on designing a driveway exit that forced truck traffic to make a right turn only.

88. Phillip Langer, 286 Merrick Road, asked if the Board had its own traffic expert, which the Board Attorney identified the Board Traffic Engineer. Mr. Langer stated that he agreed with the other members of the public in their concerns related to traffic and noise. The Board Planner and Board Attorney informed the public how one could assist in enforcing the noise ordinance by reporting any violation to the Township. The Board Planner and Board Attorney also explained that recording any violation would assist in providing additional evidence for enforcement. The Board Planner and Board Attorney also advised that the Board could not deny an application on the assumption that a permitted use may violate the noise ordinance. Mr. Langer asked for the Board to deny the application.

89. Mike Greenfield, 417 Brickyard Road, asked if the intersection of Fairfield Road and Adelpia Road was studied for turning radii of tractor trailers. Mr. Disario testified that all trucks from the site would travel to and from Route 33 and would not use Adelpia Road. Mr. Greenfield further expressed his concern that tractor trailer traffic would travel from I-195 to County Route 537 to Adelpia Road to Fairfield Road to arrive at the site. The Board Planner explained that, based on the testimony provided, the Applicant did not study such a route because truck traffic would use Route 33, which was the most convenient route to the subject Property. Mr. Lange further testified that Port of Newark was north of the Township and that tractor trailer traffic would travel Route 18 to Route 9 to Route 33 to arrive at the site. Mr. Greenfield asked that the route that he suggested be studied.

90. Steven Morlino, 51 Peachstone Road, expressed his concern with the underground storage tanks and asked when the documents would be available to the public. Mr. Lange stated that the documents would be submitted to NJDEP at the time of construction. Mr. Morlino also expressed his concern that the public had to submit a request via OPRA. Mr. Lange testified that the Applicant would be engaging an LSRP. Mr. Lange further testified that ground penetrating radar test was

already performed and did not find any anomalies. He stated that it was the Applicant's position that the underground storage tanks have been removed and that the open files with NJDEP would be closed with the submission of administrative paperwork. Mr. Lange stated that if the underground storage tanks were to be found during construction, they would be addressed at that time. Mr. Lange agreed to carbon copy the Board on all correspondence with the LSRP.

91. Mr. Morlino further expressed a concern with the safety of school buses on Fairfield Road. He asked if the TIS included specific number of school buses on the road. Mr. Disario stated that buses were captured as part of the TIS, but a specific number was not recorded. He explained that the time of day the traffic counts were collected were 6am to 10am and 2pm to 7pm to capture school activity. Mr. Morlino explained that he wanted to know the ratio of bus to tractor trailers on Fairfield Road. Mr. Morlino stated that he believed such a ratio was relevant to understating road safety. Mr. Disario testified that there is no correlation between a bus to tractor trailer ratio and safety.

92. In response to Mr. Morlino, the Board Traffic Engineer stated that he did not see a breakdown of bus numbers. He stated, however, that the TIS was not flawed because it did not include a specific number of buses. He stated that it was rare to include such a ratio. The Board Traffic Engineer testified that he had reviewed Mr. Disario's TIS and found the document to be comprehensive and further took no issue with Mr. Disario's testimony. In order to address the concerns of the public, Mr. Disario agreed to investigate the bus to tractor trailer ratio on Fairfield Road. Mr. Morlino still expressed his opinion that the TIS should be more comprehensive and that there was insufficient information for the Board to vote on the application.

93. Richard Johnsen, 302 Baker Road, asked what the berm and wall height would be. Mr. Lange testified that the total berm and wall height would be fifteen (15) feet. He explained that the height of the berm itself may vary, but the grade would not exceed a ratio of 3:1 and it would

comply with state sediment regulations. Mr. Johnsen stated that he was concerned with stormwater runoff onto Baker Road. Mr. Lange testified that there would not be any additional runoff. Mr. Johnsen was also concerned with the location of the mailboxes for Baker Road. He stated that the postmaster had required that the mailboxes be located at the end of Baker Road near the subject Property's southern property line. Mr. Lange testified that they may have to be moved back with the widening of Fairfield Road. Mr. Johnsen also expressed his concern with the patchwork, potholes, and drainage on Fairfield Road. Mr. Lange testified that Fairfield Road would be repaved from Adelphia Road to Route 33 once the developments on Fairfield Road were completed. He stated that the repaving would address all the issues with condition of Fairfield Road, including drainage. Mr. Johnsen also expressed his concern with tractor trailer route from Adelphia Road.

94. Kathy Losche, 1 Vicksburg Court, stated that she understood the limitations of the Planning Board in regard to traffic. Ms. Losche stated that she believed the TIS was incomplete and that the Board should take that into consideration. Ms. Losche further expressed her concern with passenger car traffic from the site toward Adelphia Road. In response, Mr. Disario testified that his TIS studied the entire length of Fairfield Road from Adelphia Road at the south to Park Avenue just north of its intersection with Route 33. He stated that the TIS accounted for passenger cars and tractor trailers. He stated that passenger cars were permitted to drive on Adelphia Road.

95. Lu Wang, 2 Statesboro Road, testified that the vibration from construction noise and vehicles on Fairfield Road had caused damage to the structure of his dwelling. The Board Attorney advised Mr. Wang that the Board was unable to help in remedying the damage to his dwelling, however all legal remedies were available to him. Mr. Wang further expressed his concern with mailboxes and houses being close to the roadway and tractor trailer traffic. Mr. Wang further expressed his concern with damage to the roadway. Mr. Gianetti represented that improvements

would be made to the roadway. Mr. Disario also stated that that tractor trailer traffic from the site would be limited from travelling south on Fairfield Road. Mr. Wang expressed his dissatisfaction with the Applicant's traffic engineer's response.

96. Marc Parisi, 2 Castle Court, asked how many TISs were performed. Mr. Disario testified that only one (1) TIS was performed. Mr. Parisi asked for clarification on why the TIS cited another application. Mr. Disario testified that that was a typographical error. Mr. Parisi further asked for clarification on if the TIS relied on the TIS for the Rock Solid development on Fairfield Road dated December 4, 2019 and what were the number of trips from the Rock Solid development over a 24 hour period. Mr. Disario testified that the TIS for the Rock Solid development was used as a basis for the TIS with this application, but only the peak hour number of trips were used. He stated that he did not know the total number of trips generated over a 24 hour period. Mr. Parisi expressed his concern that only knowing the number of trips generated during peak hours and not the total number of trips generated over a 24 hour period was insufficient and that the peak was only a snapshot. Mr. Disario testified that it was standard practice to only examine the peak hour trip generation, not the total over a 24 hour period. Mr. Disario testified that nothing was left out of his analysis. Mr. Parisi asked if it was possible that the trip generation could exceed the peak hour. Mr. Disario explained that the peak hour of a warehouse use coincided with typical commute times and a traffic study is intended to evaluate the most impact to traffic, which is during commuter times.

97. In response to further questions from Mr. Parisi, Mr. Disario testified that there were no issues of safety with the ingress and egress if tractor trailers were to leave from the two driveways simultaneously. He stated that it was not possible for there to be a conflict. Mr. Disario further testified that the recommendations of the NJDOT for improvements to the on ramps of Route 33 were included in the TIS. Mr. Disario explained that the recommendations were to modify the on ramps for better

radii for tractor trailers. Mr. Disario testified that those improvements to the on ramps had already been made. He explained in detail that the curbing of the eastbound on ramp and median were modified. Mr. Disario also testified that he had confirmed in person that the improvements were made. The Board Engineer added that there was no inspection of the improvements required because it was part of NJDOT project.

98. There were no other members of the public expressing an interest in this application.

99. The Board has received, reviewed and considered various exhibits and reports with regard to this application. Those exhibits and reports are set forth on the attached Exhibit List, and all exhibits and reports as set forth on said Exhibit List have been incorporated herein in their entirety.

WHEREAS, the Howell Township Planning Board, having reviewed the proposed application and having considered the impact of the proposed application on the Township and its residents to determine whether it is in furtherance of the Municipal Land Use Law; and having considered whether the proposal is conducive to the orderly development of the site and the general area in which it is located pursuant to the land use and zoning ordinances of the Township of Howell; and upon the imposition of specific conditions to be fulfilled, hereby determines that the Applicant's request for preliminary and final site plan approval pursuant to N.J.S.A. 40:55D-46 and 50 along with ancillary variance relief pursuant to N.J.S.A. 40:55D-70c(2) and design waiver relief pursuant to N.J.S.A. 40:55D-51 should be granted.

I. Variance Relief

The Board finds that the Applicant has proposed a permitted use in the Zone but does require bulk variance relief. The Municipal Land Use Law, at N.J.S.A. 40:55D-70c provides Boards with the power to grant variances from strict bulk and other non-use related issues when the applicant satisfies certain specific proofs which are enunciated in the Statute. Specifically, the applicant may

be entitled to relief if the specific parcel is limited by exceptional narrowness, shallowness or shape. An applicant may show that exceptional topographic conditions or physical features exist which uniquely affect a specific piece of property. Further, the applicant may also supply evidence that exceptional or extraordinary circumstances exist which uniquely affect a specific piece of property or any structure lawfully existing thereon and the strict application of any regulation contained in the Zoning Ordinance would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the developer of that property. Additionally, under the c(2) criteria, the applicant has the option of showing that in a particular instance relating to a specific piece of property, the purpose of the act would be advanced by allowing a deviation from the Zoning Ordinance requirements and the benefits of any deviation will substantially outweigh any detriment. In those instances, a variance may be granted to allow departure from regulations adopted, pursuant to the Zoning Ordinance.

Those categories specifically enumerated above constitute the affirmative proofs necessary in order to obtain “bulk” or (c) variance relief. Finally, an applicant must also show that the proposed variance relief sought will not have a substantial detriment to the public good and, further, will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. It is only in those instances when the applicant has satisfied both these tests, that a Board, acting pursuant to the Statute and case law, can grant relief. The burden of proof is upon the applicant to establish these criteria.

The Board finds that the required variance relief all relates to the construction of the sound wall. As previously stated, the Ordinance does not require a sound wall to protect the neighboring properties. The Applicant is capable of designing a development which satisfies the Ordinance requirements and does not include a sound wall at all. The Applicant is also capable of designing

a plan which includes a sound wall that complies with Ordinance requirements. Such a design, however, would result in a sound wall which is much less effective. The Board finds that the deviations from Ordinance requirements promote advances the public welfare by reducing the sound generated by the permitted use. The Board therefore finds that the goals of planning enumerated at N.J.S.A. 40:55D-2 have been advanced and the positive criteria has therefore been satisfied.

The Board also finds that the negative criteria has been satisfied. The grant of variance relief will reduce noise. It will also not increase traffic or density beyond what is contemplated by the Ordinance. The Board therefore concludes that the grant of variance relief will not result in substantial detriment to the public welfare or substantial detriment to the zone plan or zoning ordinance. The negative criteria has therefore been satisfied.

The Board concludes that the positive criteria substantially outweighs the negative criteria and that variance relief pursuant to N.J.S.A. 40:55D-70c(2) may be granted.

II. Design Waiver Relief

The Board first addresses the issue of design waiver relief from Section 188-106A. The Board finds that while this Section requires driveways with widths exceeding 24 feet to be approved by the Board, other Sections of the Ordinance require a minimum width of 30 foot for an industrial use. The Board therefore finds that the Applicant has complied with the Ordinance requirement and that design waiver relief is not required.

The Board also finds that the Applicant is capable of complying with all lighting requirements. The Applicant has, however, proposed a plan which is compliant with IES standards. The Board finds that the IES standards better promote the appropriate levels of lighting in the various areas of the proposed development. The IES is further a highly regarded national

standard which is widely used. The Board's own professionals further agree that the IES standard should be utilized. The Board therefore determines that the Applicant would encounter impracticable difficulty in developing the subject Property in the most efficient manner if the strict requirements of the Ordinance were enforced and that design waiver relief pursuant to N.J.S.A. 40:55D-51 is therefore appropriate.

The Board further finds that the subject Property is heavily wooded and is not capable of being developed with most permitted uses at all if not partially cleared. The Board distinguishes the subject Property from other sites wherein similar uses have been proposed due to its limited size. The Board finds that the Applicant has proposed waiver relief to permit an in lieu of financial contribution in this instance. This contribution is appropriate considering the size and shape of the subject Property. Waiver relief pursuant to N.J.S.A. 40:55D-51 is therefore appropriate in this instance.

The Board also finds that requiring the landscaping of the beds of the bay door areas would be futile. This is because such plantings would have little likelihood of survival. This landscaping is also of limited utility considering that it would not be seen by anybody. The Board therefore finds that the strict applicability of the Ordinance would create practicable difficulties in developing the subject Property with this permitted use and that design waiver relief pursuant to N.J.S.A. 40:55D-51 is therefore appropriate.

The Board also finds that the proposed screening associated with the trash enclosure is acceptable. The shape of the subject Property makes it difficult to provide screening directly adjacent to the trash enclosures. The proposal still has screening, but locates the screening in more logical locations resulting in the same effectiveness. The Board therefore concludes that the strict

application of the Ordinance requirements would result in practicable difficulty in developing the subject Property and that design waiver relief pursuant to N.J.S.A. 40:55D-51 is appropriate.

III. Site Plan Approval

The Board finds it necessary to first discuss its statutory jurisdiction in the review of applications for site plan approval. The Board is vested with jurisdiction pursuant to the MLUL to review applications to confirm compliance with ordinance and any other applicable requirements and where there is non-compliance to exercise quasi-judicial power to either grant or deny relief.

The New Jersey courts have characterized this jurisdiction as being “tightly circumscribed”. A planning board is prohibited from basing its decision on whether a particular use should be permitted or prohibited. This is a legislative power which is solely vested with a governing body. Planning boards are explicitly prohibited from unlawfully usurping this jurisdiction for itself.

In the instant matter, this means that opinions of whether warehouses are a good or unwise permitted use in the SED Zone is well outside of this Board’s jurisdiction. This Board is limited by what is permitted in the Township’s Ordinance. The proposed use is permitted which ends the issue.

The Board also finds it necessary to discuss the issue of traffic in site plan applications. The New Jersey Courts have held that general increases in traffic were necessarily considered by a governing body when adopting ordinances making certain uses permitted. This means that the mere increase in traffic may not be used as a reason to deny an application for a permitted use.

The one exception involves safe ingress and egress from a site. A planning board is vested with the power to deny an application for a permitted use when ingress or egress is dangerous.

The increase in truck traffic associated with the proposed use therefore cannot support the denial of the instant application. Both the Applicant's professionals as well as Board's own professionals also reached the same conclusion that the proposed ingress and egress would be safe.

The Board's Traffic Engineer further testified that the Applicant's TIS complied with all relevant standards and was not incomplete. The Board also finds that standard TIS submissions do not include a separate analysis of bus traffic. Rather, the bus traffic is analyzed as part of the overall traffic generation calculations. The Board therefore concludes that traffic issues cannot support denial of the instant application.

With the exception of the above referenced relief, the Applicant has satisfied all other site plan, zoning and design standard ordinances. The Applicant further agreed to all of the previously referenced conditions of approval. The Board therefore determines that preliminary site plan approval and final site plan approval pursuant to N.J.S.A. 40:55D-46 and N.J.S.A. 40:55D-50 are appropriate in this instance.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Howell on this 13th day of April 2023, that the action of the Planning Board taken on March 16, 2023, granting Application No. SP-11095 of AAFRHW, LLC, for preliminary and final site plan approval pursuant to N.J.S.A. 40:55D-46 and 50, ancillary variance relief pursuant to N.J.S.A. 40:55D-70c(2) and design waiver relief pursuant to N.J.S.A. 40:55D-51 are hereby memorialized as follows:

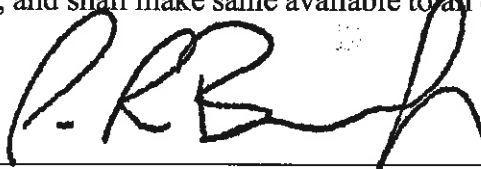
The application is granted subject to the following conditions:

1. All site improvement shall take place in the strict compliance with the testimony and with the plans and drawings which have been submitted to the Board with this application, or to be revised.
2. Except where specifically modified by the terms of this Resolution, the Applicant shall comply with all recommendations contained in the reports of the Board's Professionals.

3. Hazardous materials, except common cleaning supplies, shall be prohibited from being stored on the subject Property.
4. Outside storage shall be prohibited on the subject Property, except for trailer parking.
5. The Applicant shall submit a tree planting plan subject to the review and approval of the Board's Certified Tree Expert.
6. No flammable material shall be stored on the subject Property, except for common cleaning products.
7. All parking spaces shall comply with Township Ordinance requirements.
8. The Lighting Plan shall comply with IES standards.
9. The Applicant shall retain a Licensed Site Remediation Professional (LSRP) and close all open files with NJDEP. The Applicant shall copy the Board on submissions by the LSRP to the NJDEP and submit all related documents to the Board.
10. The Applicant shall submit a driveway design that prohibits left turn movements for tractor trailers exiting the site subject to review and approval by the Board's Professionals.
11. The Applicant shall submit a revised stormwater basin design subject to the review and approval by the Board Engineer.
12. The Applicant shall comply with all Municipal, County, and State regulations regarding storage of materials.
13. The Applicant shall execute a Title 39 Agreement with the Township.
14. The Applicant shall revise the plans to depict a sound barrier wall on top of the berm for a total of fifteen (15) feet in height along the southern property line around the drive aisle curve and east of the truck court of Building A, subject to the review and approval of the Board Engineer and Board Planner.
15. The Applicant shall supplement the TIS by submitting school bus data subject to the review and approval of the Board Traffic Engineer.
16. The stormwater management system shall be privately maintained and operated.
17. The stormwater management manual shall be recorded.
18. The facade shall comply with all Ordinance requirements as depicted on Ex. A-7 and A-8.
19. Light spillage on other properties is expressly prohibited.

20. The Applicant shall revise the plans to supplement the buffers subject to the review and approval of the Board Engineer.
21. The Applicant shall address the comments contained in the Report from the Township Environmental Commission.
22. The Applicant shall be responsible for posting a restoration bond in accordance with the MLUL.
23. The Applicant shall be responsible for posting a bond for tree replacement.
24. The plans shall be revised to depict a “no left turn for tractor trailers” sign at the exit driveways.
25. The plans shall be revised to depict the compliant stormwater basin design.
26. The Applicant shall provide a certificate that taxes are paid to date of approval.
27. Payment of all fees, costs, escrows due and to become due. Any monies are to be paid within twenty (20) days of said request by the Board Secretary.
28. Subject to all other applicable rules, regulations, ordinances and statutes of the Township of Howell, County of Monmouth, State of New Jersey or any other jurisdiction.

BE IT FURTHER RESOLVED that the Board secretary is hereby authorized and directed to cause a notice of this decision to be published in the official newspaper at the Applicant's expense and to send a certified copy of this Resolution to the Applicant and to the Township Clerk, Engineer, Attorney and Tax Assessor, and shall make same available to all other interested parties.



Paul Boisvert, Chairman
Howell Township Planning Board

ON MOTION OF: Mr. Greenfield

SECONDED BY: Ms. Talente

ROLL CALL:

YES: Mr. Greenfield, Mr. Huszar, Ms. Talente, Mr. Mercer and Chairman Boisvert

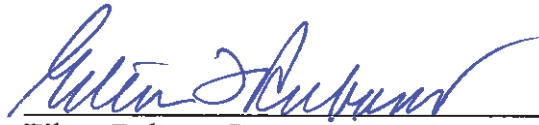
NO:

ABSTAINED:

ABSENT: Mr. Cristiano, Mr. Seaman and Mr. Kyle

DATED: April 13, 2023

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Howell Township Planning Board, Monmouth County, New Jersey at a public meeting held on April 13, 2023.


Eileen Rubano, Secretary
Howell Township Planning Board

HOWELL TOWNSHIP PLANNING BOARD
EXHIBITS
Case No. SP-1095 / AAFRHW Property, LLC
Preliminary and Final Major Site Plan with Ancillary Variance Relief
June 2, 2022
June 16, 2022
August 18, 2022
September 1, 2022
November 22, 2022
November 29, 2022
January 5, 2023
February 2, 2023
March 16, 2023

- A-1 Development application
- A-2 Application Checklist
- A-3 Preliminary and Final Major Site Plans consisting of seventy-seven (77) sheets prepared by Bohler Engineering, dated November 2, 2021, last revised 1/10/23
- A-4 Boundary & Topographic Survey consisting of nine (9) sheets prepared by Control Point Associates, Inc. dated 9/17/21, unrevised
- A-5 Proposed Right of Way Dedication Sketch consisting of one (1) sheet prepared by Control Point Associates, Inc. dated 11/12/21, unrevised.
- A-6 Right of Way legal description prepared by Control Point Associates Inc., dated 11/12/21, unrevised
- A-7 Building A Overall Floor Plan and Elevations consisting of two (2) sheets prepared by Mitchell and Hugeback Architects, Inc., dated 1/18/22 last revised 1/20/23
- A-8 Building B Overall Floor Plan and Elevations consisting of two (2) sheets prepared by Mitchell and Hugeback Architects, Inc., dated 1/18/22 last revised 1/20/23
- A-9 Color Rendering consisting of one (1) sheet prepared by Mitchell and Hugeback Architects, Inc., dated 6/29/22
- A-10 Traffic Impact Study prepared by Langan Engineering & Environmental Services, Inc., dated 11/1/21, unrevised.
- A-11 Stormwater Management Report prepared by Bohler Engineering, dated October 2021, last revised January 2023

- A-12 Stormwater Management Facilities Operations & Maintenance Manual prepared by Bohler Engineering, dated October 2021, last revised January 2023
- A-13 Subsurface Investigation Report prepared by Melick-Tully & Associates dated 10/26/21, unrevised
- A-14 Environmental Impact Report prepared by EcolSciences, Inc., dated 10/29/21, unrevised.
- A-15 Natural Resources Inventory prepared by EcolSciences, Inc., dated 10/29/21, unrevised.
- A-16 Alternate Lighting Exhibit consisting of seven (7) sheets prepared by Bohler Engineering dated 11/2/21 last revised 1/20/23
- A-17 Aerial exhibit prepared by Bohler Engineering dated 5/31/22
- A-18 Rendering of Submitted site plan entitled Overall Site Layout Plan prepared by Bohler Engineering dated 12/6/21 last revised 4/22/22
- A-19 Rendering of Parking Revised site plan entitled Overall Site Layout Plan prepared by Bohler Engineering dated 12/6/21 last revised 7/15/22
- A-20 Rendering of Proposed Typical Loading Dock Area Exhibit prepared by Bohler Engineering dated 12/6/21, last revised 7/15/22
- A-21 Rock Solid Landscape Exhibit entitled Tree Replacement Exhibit prepared by Bohler Engineering dated 5/31/22
- A-22 Truck Turning Exhibits consisting of three (3) sheets (WB-67, Fire Truck and Trash Truck) prepared by Bohler Engineering dated 4/27/22
- A-23 NJDEP Freshwater Wetland Letter of Interpretation – Line Verification dated 3/9/22
- A-24 Narrative Statement of Proposed Operations in letter from Bohler Engineering dated 8/1/22
- A-25 Limited Site Investigation Report by Melick-Tully & Associates dated 10/7/21, unrevised
- A-26 Preliminary Assessment Reeport prepared by Melick-Tully & Associates dated 9/3/21, unrevised
- A-27 Phase I Environmental Site Assessment prepared by Melick-Tully & Associates dated 8/31/21, unrevised
- A-28 Groundwater Mounding Analysis
- A-29 MTA Supplemental Stormwater Test Pits and Permeability Testing 7/25/22

- A-30 Underground Basin Detail Exhibit prepared by Bohler Engineering dated 8/16/22
- A-31 Basin Information Charts dated 8/16/22
- A-32 Grading Phasing Exhibit prepared by Bohler Engineering dated 8/16/22, last revised 1/20/23
- A-33 Traffic Statement for AAVRHW Property LLC prepared by Langan dated 3/18/22, last revised 4/29/22
- A-34 MTA Letter re drums prepared by Melick-Tully & Associates dated 8/16/22
- A-35 ADA Grading Exhibit consisting of one sheet prepared by Bohler Engineering dated 8/16/22
- A-36 WB-67 Truck Turning Exhibit consisting of one sheet prepared by Bohler Engineering dated 8/18/2022
- A-37 Letter from Attorney Kenneth Pape to Chairman Tannenhaus regarding Waivers dated 2/22/22
- A-38 Letter from Attorney Kenneth Pape to Chairman regarding waiver relief dated 2/24/22
- A-39 Certification of Seth Gerszberg dated 6/15/22
- A-40 Letter from Attorney Kenneth Pape to Greg Hutchinson, Tax Assessor requesting confirmation of Roll Back Stipulation of Settlement dated 8/12/22
- A-41 Letter from Attorney Kenneth Pape to Greg Hutchinson, Tax Assessor regarding Settlement Stipulation to Rollback Complaint dated 8/9/22
- A-42 Submission Response Letter from Bohler Engineering dated 2/22/22
- A-43 Submission Response Letter from Bohler Engineering dated 5/18/22
- A-44 Submission Response Letter from Bohler Engineering dated 8/1/22
- A-45 Initial submission letter from Attorney Kenneth Pape dated 11/4/21
- A-46 Certified List of Property Owners dated 9/21/21
- A-47 Statement of Corporate Ownership dated 11/4/21

- A-48 Letter from Attorney Kenneth Pape listing the outside agency approvals required for this application dated 11/4/21
- A-49 WB-67 Truck Turning Exhibit consisting of one (1) sheet prepared by Bohler Engineering dated 8/18/2022, last revised 11/17/22
- A-50 Proposed Fire Tank and Pump House exhibit as shown on the overall grading plan prepared by Bohler Engineering dated 11/2/21, last revised 7/15/22
- A-51 Resubmission letter from Bohler Engineering dated 1/20/23
- A-52 Response to Comments from the Howell Township Planning Board related to the Limited Site Investigation as prepared by GZA dated 8/16/22
- A-53 Supplemental Stormwater Test Pits and Permeability Testing report prepared by GZA dated 1/12/23
- A-54 Truck Turning Exhibits consisting of three (3) sheets (WB-67, Fire Truck and Trash Truck) prepared by Bohler Engineering dated 8/18/22 last revised 1/20/23
- A-55 Memo from M+H Architects dated 1/20/22 (should be 1/20/23)
- A-56 Alternate Architectural plans and renderings consisting of five (5) sheets prepared by Mitchell and Hugeback Architects, Inc., dated 1/18/22 last revised 1/23/23
- A-57 Aerial Exhibit prepared by Bohler Engineering, LLC dated 1/27/23
- A-58 Overall Site Layout Plan Rendering of Submitted Site Plan prepared by Bohler Engineering, LLC dated 1/25/23
- A-59 Proposed Typical Loading Dock Area Exhibit prepared by Bohler Engineering dated 1/25/23
- A-60 Woodlands Management Plan (Tree Replacement) prepared by Bohler Engineering dated
- A-61 ADA Grading Exhibit prepared by Bohler Engineering dated 1/25/23
- A-62 Street Perspective Renderings consisting of four (4) sheets dated 1/27/23
- A-63 Overall Fairfield Road Improvements consisting of two (2) sheets prepared by Bohler Engineering dated 1/24/23

INTEROFFICE REPORTS

- B-1 Farmers Advisory Committee site plan review dated 11/18/21

- B-2 Shade Tree Commission site plan review dated 11/17/21
- B-3 Fire Bureau site plan review dated 12/08/21
- B-4 Environmental Commission site plan review dated 12/8/21
- B-5 Monmouth County Board of Health site plan review dated 12/20/21
- B-6 Monmouth County Planning Board Final Approval dated 12/13/21
- B-7 Board Engineer's review letter dated 12/23/21
- B-8 Shade Tree Commission site plan review dated 12/15/21
- B-9 Fire Bureau site plan review dated 3/7/22
- B-10 Environmental Commission site plan review dated 3/9/22
- B-11 Shade Tree Commission site plan review dated 3/16/22
- B-12 Freehold Soil Conservation District review revisions letter dated 3/21/22
- B-13 Freshwater Wetlands Application Notice to Owners dated 11/15/21
- B-14 Farmers Advisory Committee site plan review dated 3/31/22
- B-15 Board Engineer's review letter dated 4/5/22
- B-16 Preliminary Water Service approval letter dated 4/7/22
- B-17 Preliminary Conceptual Sewer Service approval letter dated 4/7/22
- B-18 Monmouth County Board of Health site plan review dated 4/11/22
- B-19 Farmers Advisory Committee site plan review dated 5/26/22
- B-20 Board Engineer's review letter dated 6/10/22
- B-21 Board Planner's review letter dated 6/13/22
- B-22 Environmental Commission site plan review dated 6/8/22
- B-23 Fire Bureau site plan review dated 6/14/22
- B-24 Shade Tree Committee site plan review dated 6/15/22

- B-25 Board Engineer's review letter dated 8/12/22
- B-26 Environmental Commission site plan review dated 8/10/22
- B-27 Monmouth County Board of Health site plan review dated 8/15/22
- B-28 Shade Tree Commission site plan review dated 8/17/22
- B-29 Board Planner's review letter dated 8/25/22
- B-30 Freehold Soil Conservation District review revisions letter dated 10/5/22
- B-31 Monmouth County Board of Health site plan review dated 6/13/22
- B-32 Township Tree Acceptance letter dated 11/3/22
- B-33 Farmers Advisory Committee site plan review dated 10/27/22
- B-34 Freehold Soil Conservation District Review Revisions Letter dated 11/2/22
- B-35 Freehold Soil Conservation District Certification letter dated 11/18/22 and a request to submit a request for authorization for a NJPDES permit dated 11/18/22
- B-36 Board Engineer's review letter dated 1/30/23
- B-37 Fire Bureau site plan review comments dated 1/30/23
- B-38 Monmouth County Board of Health site plan review dated 1/30/23
- B-39 Director of Community Development's email regarding tree planting dated 2/15/23

NOTICE

PLEASE TAKE NOTICE THAT ON MARCH 16, 2023, THE PLANNING BOARD OF THE TOWNSHIP OF HOWELL GRANTED PRELIMINARY AND FINAL SITE PLAN APPROVAL WITH ANCILLARY VARIANCE AND DESIGN WAIVER RELIEF TO AAFRHW PROPERTY, LLC FOR BLOCK 177, LOT 8.01 AS DEPICTED ON THE TAX MAP OF THE TOWNSHIP OF HOWELL, AND MORE COMMONLY KNOWN AS FAIRFIELD, HOWELL TOWNSHIP, MONMOUTH COUNTY, NEW JERSEY, APPLICATION NUMBER SP-1103 TO PERMIT THE FOLLOWING DEVELOPMENT: CONSTRUCT TWO (2) ONE-STORY WAREHOUSE BUILDING WITH OFFICE SPACE. MAPS AND ACCOMPANYING DOCUMENTS ARE AVAILABLE FOR REVIEW IN THE OFFICE OF THE PLANNING BOARD, HOWELL TOWNSHIP MUNICIPAL BUILDING, 4567 ROUTE 9 NORTH, HOWELL, NEW JERSEY.

AAFRHW PROPERTY, LLC