

WEST WINDSOR TOWNSHIP PLANNING BOARD

In the Matter of the Application of	)	FINDINGS OF FACT
	)	AND
Bridge Point West Windsor, LLC for	)	CONCLUSIONS OF LAW
	)	
<u>Preliminary and Final Major Subdivision,</u>	)	File No. PB 21-15
	)	
<u>Preliminary and Final Major Site Plan</u>	)	Block 8, Lots 1, 2, 3, 12, 16, 20, 28,
	)	32.01, 39, 40, 41, 45, 46, 47, and 49
<u>(Phase I) and Preliminary Major Site Plan</u>	)	Block 15.14, Lots 18, 19, 20, 22, and
	)	
<u>Approval (Phase II) with Waivers</u>	)	Approval granted:
	)	June 29, 2022
	)	

Be it resolved by the Planning Board of the Township of West Windsor that the action of this Board on June 29, 2022 in this matter is hereby memorialized by the adoption of this written decision setting forth the Board's findings and conclusions.

BACKGROUND

1. The site ("Site") consists of 539 acres of a larger, irregularly shaped tract totaling 645 acres, constituting the entire Planned Commercial District ("PCD"), located near the southeasterly corner of the intersection of Route 1 and Quakerbridge Road (County Route (CR) 533). It is divided into two tracts of land bisected by Clarksville Road (County Route (CR) 638). The northwest tract is located along the northbound side of U.S. Route 1 and is generally bounded by U.S. Route 1 to the northwest, undeveloped land to the northeast, Quakerbridge Road to the southwest, and Clarksville Road to the southeast. The southeast tract is located along the northbound side of Clarksville Road and is generally bounded by Clarksville Road to the northwest, undeveloped land and the Princeton Terrace multifamily development to the northeast, Quakerbridge Road to the southwest, and the Amtrak Main Line to the southeast. Existing access to the former agricultural research campus on the tract was provided via driveways on Quakerbridge Road and on Clarksville Road.

2. Approximately 20 contiguous parcels make up the Site and bear several environmental constraints, including wetlands and associated buffers, streams and stream buffers, flood hazard areas, and the Township's Greenbelt. A portion of the Site contained the former buildings and structures of the American Cyanamid property that had been established in West Windsor as an Agricultural Research Facility in 1950. The facility was vacated in 2004 and the current owner was in the process of demolishing the remaining structures at the time of the hearing in this application.

3. Surrounding land uses consist, to the north, of the U.S. Route 1 corridor and the Nassau Park Passau Pavilion shopping center; to the east, undeveloped lands, open space and the Princeton Terrace multifamily development; to the south, undeveloped lands, the Windsor Ponds multifamily development and single-family developments; and to the west, the Quakerbridge Mall and other commercial developments located in Lawrence Township.

4. Settlement Agreement and Warehouse Concept Plan. The Township, in late 2020, entered into an agreement with Atlantic Realty ("Atlantic"), the owner of the property, to settle litigation over the zoning of the property. The prior property owner, the Howard Hughes Corporation, sued the Township when it could not get approval for a proposed mixed use, mostly residential development with approximately 2,000 units, which would have required a rezoning of the property. The Township was concerned about the impact of the proposed plan upon municipal services. Atlantic acquired the property in 2019 and, as part of the settlement, agreed to give up its right to pursue residential development of the property if the Township, upon due consideration by the West Windsor Township Council at a publicly held meeting, agreed to rezone the property to permit development in accordance with a concept plan presented by Atlantic for the construction of at least 5.5 million square feet of modern warehouse use and up to 150,000 s.f. of retail space. The terms of the agreement included that, if a conforming site plan was denied by the Board, then Atlantic could seek judicial review or other recourse to pursue residential development.

#### PROPOSED PLAN

5. The Applicant proposes to construct seven warehouse buildings totaling 5,563,117 s.f., and associated improvements. The development will occur in two phases, following subdivision of the Site:

Major Subdivision will involve first the consolidation of the 20 lots, which will then be subdivided into six lots to effectuate Phases I and II, and another five lots along the frontage of U.S. Route 1 and Quakerbridge Road for the development of retail and commercial at a later stage.

Phase I will consist of construction of the new roads and utilities, including the “Master Plan Road” providing an additional access through the development and connection to U.S. Route 1 at its north end and Quakerbridge Road at its south end at the intersection with Avalon Way in Lawrence Township, and construction of three warehouse buildings, Building B1, Building C1, and Building E1 with an approximate combined footprint of 3,010,099 s.f., and the construction of multiple storm water management facilities. These three warehouses will be located closest to Quakerbridge Road, on either side of Clarksville Road, which bisects the whole development from east to west.

Phase II will consist of the construction of the remaining four warehouse buildings, Building A1, Building B2-1, Building B2-2, and Building D1 with an approximate combined footprint of 2,553,018 s.f., and the construction of multiple storm water management facilities. These warehouses will be located on the other half of the development, further away from Quakerbridge Road and generally east of the proposed Master Plan Road, which bisects the development from north to south. Only Preliminary Site Plan Approval is sought for Phase II, so the Applicant will have to come back for final approval before beginning construction on these four warehouses.

Development of the five lots making up the remainder of the PCD is not part of this application but will be applied for in future. The Applicant indicated that it would be handled by Atlantic. Development of this phase will be located along the frontages of Quakerbridge Road, U.S. Route 1, and the northerly extent of the proposed Master Plan Road.

6. The proposed development is a permitted use in the PCD.

#### RELIEF SOUGHT

7. The applicant seeks preliminary and final subdivision approval, preliminary and final major site plan approval for Phase I of the project, and preliminary major site plan approval for Phase II of the project. The following 14 design waivers are sought, although as noted in the Waiver section below, only 12 of these are granted. 12 submission waivers are also requested.

## *Design waivers*

### *Parking and Loading –*

- From Section 200-28D(2)(b), requiring a waiver to exceed the required off-street parking and loading requirements, or 1,754 spaces, whereas 2,201 parking spaces (including 200 banked spaces) are proposed;
- From Section 200-27D(1), permitting 147 loading bays, whereas 910 loading bays are proposed;

### *Signage –*

- From Section 200-32B(8)(c), which permits a maximum size of two s.f. for instructional signage, whereas instructional signage of 12 s.f. is proposed;
- From Section 200-32B(11)(b), which permits a maximum height of eight inches for street address signage, whereas street address signage with a height of 24 inches is proposed;
- From Section 200-32B(3)(b), which permits a maximum sign area, including structure, of 48 s.f. for monument signs, whereas monument signage of 60 s.f., including structure, is proposed;
- From Section 200-32B(3)(c), which permits a maximum sign height, including structure and sign area, of four feet, whereas monument signage 16 feet high, including structure and sign area, is proposed;

### *Landscaping –*

- From Section 200-13C(3)(e), requiring trees of five or more inches in caliper to be located and identified, whereas such trees are not being identified;
- From Section 200-91P(5)(b)[4], requiring one 4-inch caliper tree for every 40 linear feet of building perimeter for buildings over 10,000 s.f. to be planted within 75 feet of the building, whereas 4-inch caliper trees are proposed to be planted within 100 feet of the building;

### *Storm Water Management –*

- From Section 200-91P(4)(a)[1][a], which requires stormwater detention areas to be graded “creatively to blend into the surrounding landscape and imitate a natural depression with an irregular edge,” whereas the proposed landscaping design does not conform strictly with this requirement;

- From Section 200-207.4U(7), which requires that “suitably landscaped and bermed stormwater basins” may be located within any yard setbacks or landscaped buffers provided that a maximum of 50% of the basin may be located within the buffer area, whereas eight stormwater basins located entirely within a buffer area are proposed;

*Lighting –*

- From Section 200-29G(1), requiring all parking areas to be lit to provide a minimum of 3.0 footcandles at driveway intersections with main roads and a total average illumination of 0.5 footcandle throughout the parking area, whereas an average light intensity for the parking areas of between 1.7 and 2.0 footcandles for passenger car parking, and between 2.2 and 2.4 for truck parking is proposed;
- From Section 200-31K(1), requiring light levels in parking lots to be an average of 0.5 footcandles throughout, whereas average illumination of passenger parking areas is proposed to be between 1.7 and 2.0 footcandles, with 0.5 footcandles being the minimum spot illumination, and average illumination of truck parking areas is proposed to be between 2.2 to 2.4 footcandles, with 0.5 being the minimum spot value;
- From Section 200-31K(2), requiring light levels at intersections to be 3.0 footcandles, whereas the proposed average light levels at intersections range from 3.1 to 4.4 footcandles.
- From Section 200-31K(3), requiring no more than a 1.0 intensity in footcandles at property lines, whereas greater intensity in footcandles at property lines is proposed at driveway intersections with Clarksville Road.

*Submission waivers*

*Subdivision Checklist*

- From Section 200-53C(1) (partial waiver), which requires a key map at a scale not smaller than 1" = 1,000' showing the relationship of the entire tract to the neighborhood at least 1,000 feet beyond its boundaries, whereas a map at a scale of 1" = 2,000' was provided;
- From Section 200-53C(4)(a) (temporary waiver), which requires at least two permanent bench marks to be established for each 50 acres of the tract to be subdivided, whereas bench mark information will be provided prior to construction;
- From Sections 200-53C(19) and (23), requiring submission of a New Jersey Department of Environmental Protection (NJDEP or DEP) Letter of Interpretation indicating the presence or absence of freshwater wetlands on the Site, whereas an application for Freshwater Wetlands permitting was pending at the time of this approval;

- From Section 200-54C (10)(partial waiver), requiring final construction plans showing proposed utility layouts and connections to existing or proposed utility systems, whereas such plans are not being submitted at this time as preliminary and final approval are being sought concurrently;
- From Section 200-54C(11)(a)(partial waiver), requiring a final drainage plan, whereas such plans are not being submitted at this time as preliminary and final approval are being sought concurrently;
- From Section 200-54C(12)(partial waiver), requiring a Soil Erosion Plan to be submitted, whereas such plans are not being submitted at this time as preliminary and final approval are being sought concurrently;
- From Section 200-54C(13)(a) and (b)(partial waivers), requiring a proposed grading plan to be submitted, whereas such plan will be provided upon completion of construction;
- From Section 200-54C(14)(partial waiver), requiring a copy of the preliminary approval resolution to be provided, whereas such resolution is not being provided as preliminary and final approval are being sought concurrently; and
- From Section 200-54C(18)(a) and (b)(partial waivers), requiring an as-built lot grading plan to be submitted, whereas such plans are not being submitted at this time as preliminary and final approval are being sought concurrently.

#### *Site Plan Checklist*

- From Section 200-14C(1)(a), requiring the approved preliminary site plan to be submitted, whereas such plans are not being submitted at this time as preliminary and final approval are being sought concurrently for Phase I;
- From Section 200-14C(1)(b)[1], requiring final plans to include construction details specified at the time of preliminary approval, whereas such details are not being submitted at this time as preliminary and final approval are being sought concurrently for Phase I; and
- From Section 200-14C(1)(b)[5], requiring a final landscape plan substantially conforming to the approved preliminary landscape plan to be submitted, whereas such plan is not being submitted at this time as preliminary and final approval are being sought concurrently for Phase I.

8. The Applicant also requests an initial vesting period of 10 years for the Preliminary and Final Site Plan and Subdivision approvals pursuant to *N.J.S.A. 40:55D-52(b)*, which permits a planning board to grant longer vesting periods for larger scale projects.

9. No variances are requested.

#### THE APPLICANT

10. The Applicant is Bridge Point West Windsor, LLC, which is leasing the property from the owner, Atlantic Realty.

#### NOTICE AND HEARING

11. The Applicant obtained a list of all property owners within 200 feet of the property that is the subject of this application from the West Windsor Township and Lawrence Township municipal offices.

12. The applicant filed an affidavit stating that the notice was given at least ten days in advance of the hearing date to the surrounding property owners and to the public entities required to be noticed. The applicant has also filed a proof of publication confirming that newspaper publication was made in accordance with legal requirements. Proper notice was given.

13. The notice and publication stated that the hearing would be held at the meeting of the Board scheduled for May 11, 2022. Jurisdiction was taken on such date as to the sufficiency of notice and service. The hearing was carried to and heard on May 18, 2022, May 25, 2022, June 1, 2022 and June 29, 2022, with no further notice being required.

14. At the hearing, the applicant and all other interested parties were given the opportunity to present evidence and to be heard.

#### PLANS PRESENTED

15. At the hearing, the Board reviewed the following plans:
  - Plans entitled "Preliminary and Final Site Plan Application for Bridge Point 8 Industrial Park - Block 8, Lots 1, 2, 3, 12, 16, 20, 28, 32.01, 39, 40, 41, 45, 46, 47, & 49 and Block 15.14, Lots 18, 19, 20, 22 & 75- West Windsor Township, Mercer County, New Jersey" prepared by Langan (Christian Roche, P.E.), consisting of 295 sheets, dated December 3, 2021 and revised through March 30, 2022

- Plans entitled “Preliminary and Final Major Subdivision - Bridge Point 8 Industrial Park - Block 8, Lots 1, 2, 3, 12, 16, 20, 28, 32.01, 39, 40, 41, 45, 46, 47, & 49 and Block 15.14, Lots 18, 19, 20, 22 & 75- West Windsor Township, Mercer County, New Jersey” prepared by Langan Engineering and Environmental Sciences, Inc. (Joseph E. Romano, P.L.S.), consisting of 5 sheets dated November 12, 2021, revised through March 30, 2022
- Plans entitled “ALTA/NSPS Land Title Survey - Bridge Point 8 Industrial Park - Block 8, Lots 1, 2, 3, 12, 16, 20, 28, 32.01, 39, 40, 41, 45, 46, 47, & 49 and Block 15.14, Lots 18, 19, 20, 22, 26 & 75- West Windsor Township, Mercer County, New Jersey” prepared by Langan Engineering and Environmental Sciences, Inc. (Joseph E. Romano, PLS), consisting of 3 sheets dated November 12, 2021, revised through December 3, 2021
- Architectural drawings entitled “Proposed Elevations” prepared by Cornerstone Architects, LTD, consisting of 7 sheets, dated March 29, 2022
- Architectural drawings entitled “Proposed Floor Plan” prepared by Cornerstone Architects, LTD, consisting of 7 sheets, dated March 29, 2022
- Plans entitled “Stormwater Management Facilities Plan – Bridge Point 8 Industrial Park – West Windsor Township, Mercer County, New Jersey” prepared by Langan Engineering and Environmental Sciences, Inc. (Christian Roche, P.E.), consisting of 3 sheets dated March 30, 2022, unrevised

## TOWNSHIP REPORTS

16. At the hearing, the Board considered the following reports presented by Township officials and bodies and consultants to the Board:

- Memorandum from David Novak, P.P., A.I.C.P. to the Board dated May 3, 2022
- Memorandum from Dan Dobromilsky, L.L.A. to the Board dated May 3, 2022
- Memorandum from Christopher B. Jepson, P.E. to the Board dated May 3, 2022
- Memorandum from Jeffrey A. L’Amoreaux, P.E. to the Board dated May 5, 2022
- Memorandum from Francis A. Guzik, P.E. to the Board dated May 4, 2022
- Memorandum from Chief Timothy M. Lynch to the Board dated May 4, 2022
- Memorandum from Gerald J. Muller, Esq. to the Board dated June 13, 2022

## EXHIBITS AND APPLICANT’S REPORTS AND SUBMISSIONS

17. At the hearing, the Board considered the following reports and submissions prepared by the Applicant’s consultants and advisors and the following exhibits that were introduced as evidence during the course of the hearing:



### *Exhibits*

- Exhibit A-1 – Vicinity map
- Exhibit A-2 – Subdivision map
- Exhibit A-3 – Phase 1 rendering
- Exhibit A-4 – Plan Rendering Phase 1 and 2
- Exhibit A-5 – Constraints Exhibit Existing Condition
- Exhibit A-6 – Constraints Exhibit Proposed Condition
- Exhibit A-7 – Truck Auto Circulation
- Exhibit A-8 – Pedestrian Bicycle Circulation
- Exhibit A-9 – Sections
- Exhibit A-10 – Plant Palette
- Exhibit A-11 – Lighting
- Exhibit A-12 – Soundwall
- Exhibit A-13 – Peak Hour Truck/Auto Distribution
- Exhibit A-14 – Building B-1 Elevations
- Exhibit A-15 – Materials Board
- Exhibit A-16 – Proposed Elevations, Entry Perspective

### *Reports and submissions*

- Report entitled “Environmental Impact Statement for Bridge Point 8 Industrial Park - Block 8, Lots 1, 2, 3, 12, 16, 20, 28, 32.01, 39, 40, 41, 45, 46, 47, & 49 and Block 15.14, Lots 18, 19, 20, 22 & 75- West Windsor Township, Mercer County, New Jersey” prepared by Langan Engineering and Environmental Sciences, Inc. (unattributed), dated March 30, 2022
- Report entitled “Overall Stormwater Management Report - Bridge Point 8 Industrial Park - West Windsor Township, Mercer County, New Jersey” prepared by Langan Engineering and Environmental Sciences, Inc. (William Boska, P.E. & Christian Roche, P.E.), dated November 12, 2021; revised through March 30, 2022
- Report entitled “Phase 1 Stormwater Management Report - Bridge Point 8 Industrial Park - West Windsor Township, Mercer County, New Jersey” prepared by Langan Engineering and Environmental Sciences, Inc. (William Boska, P.E. & Christian Roche, P.E.), dated March 30, 2022, unrevised
- Document entitled “Stormwater Maintenance Plan - Bridge Point 8 Industrial Park - West Windsor Township, Mercer County, New Jersey” prepared by Langan Engineering and Environmental Sciences, Inc. (William Boska, P.E. & Christian Roche, P.E.), dated November 12, 2021, unrevised (submitted as Appendix to Overall Stormwater Management Report)
- Report entitled “Traffic Impact Study - Bridge Point 8 Industrial Park - West Windsor Township, Mercer County, New Jersey” prepared by Langan Engineering and Environmental Sciences, Inc. (Karl A. Pehnke, P.E., P.T.O.E. & Kerry A. Pehnke, P.E.), dated November 12, 2021, revised through April 7, 2022
- Report entitled “Water System Engineer’s Report - Bridge Point 8 Industrial Park - Block 8, Lots 1, 2, 3, 12, 16, 20, 28, 32.01, 39, 40, 41, 45, 46, 47, & 49 and Block 15.14, Lots 18, 19, 20, 22 & 75- West Windsor Township, Mercer County, New

- Jersey” prepared by Langan Engineering and Environmental Sciences, Inc. (Dulce S. Miguel, P.E. & Christian Roche, P.E.), dated November 12, 2021, revised through March 30, 2022
- Report entitled “Sanitary Sewer Engineer’s Report - Bridge Point 8 Industrial Park - Block 8, Lots 1, 2, 3, 12, 16, 20, 28, 32.01, 39, 40, 41, 45, 46, 47, & 49 and Block 15.14, Lots 18, 19, 20, 22 & 75- West Windsor Township, Mercer County, New Jersey” prepared by Langan Engineering and Environmental Sciences, Inc. (Dulce S. Miguel, P.E. & Christian Roche, P.E.), dated November 12, 2021, revised through March 30, 2022
  - Report entitled “Soil Logs and Permeability Test Results – Proposed Warehouse Development – Bridge Development Partners, LLC – West Windsor, Mercer County, New Jersey” prepared by Melick-Tully and Associates (Anthony G. DeZenzo, P.E., Christopher P. Tansey, P.E. and Mark R. Denno, P.E.), dated November 11, 2021 (submitted as Appendix to Overall Stormwater Management Report)
  - Photo Report prepared by Langan Engineering and Environmental Sciences, Inc., undated, consisting of 147 color photographs and a “Photo Map” showing the locations and view directions of the various photographs, dated November 12, 2021;
  - Document entitled “Engineer’s Estimate – Bridge Point 8 Industrial Park – West Windsor Township, Mercer County, New Jersey – Overall Site Improvements” prepared by Langan Engineering and Environmental Sciences, Inc. dated February 15, 2022
  - Document entitled “Engineer’s Estimate – Bridge Point 8 Industrial Park – West Windsor Township, Mercer County, New Jersey – Site Improvements Within Right-of-Way” prepared by Langan Engineering and Environmental Sciences, Inc. dated February 15, 2022
  - Document referenced “Authorization for Freshwater Wetlands Letter of Interpretation – Extension” issued by NJDEP under File No. 1113-10-0001.1, Activity Number: FWW150001 to Howard Hughes Corp., dated January 22, 2016, referencing each of the Block/Lots involved in this application plus Lot 26 in Block 15.14 and indicating an expiration date of December 19, 2020
  - Document referenced “Freshwater Wetlands Letter of Interpretation – Line Verification” issued by NJDEP under File No. 1113-10-0001.1, Activity Number: FWW-FWL14-100001 to General Growth Properties, Inc. / Former Wyeth Tract, dated December 20, 2010 referencing each of the Block/Lots involved in this application plus Lot 26 in Block 15.14 with the approved wetland delineation plans dated June 30, 2010, revised through November 12, 2010, consisting of a Key Plan and 7 detailed sheets
  - Application package for NJDEP Freshwater Wetlands General Permits, Transition Area Waiver (Buffer Averaging), Flood Hazard Area Verification (Methods 1 & 6) and Flood Hazard Area Individual Permit prepared by Langan, dated November 12, 2021, revised March 30, 2022
  - Application package dated November 11, 2021, revised March 29, 2022, including:
    - Application form with Rider
    - Site Plan and Subdivision Checklists
    - Green Development Practices Checklist
    - Ownership Certification

- Agreement to Pay for Professional Review and Inspections form and W-9
- Tax Collector's Certification that taxes are current
- Title Report

## TESTIMONY AND PUBLIC INPUT

18. The testimony presented by and on behalf of the Applicant was given by the following persons:

Christopher H. DeGrezia, Esq. represented the Applicant. John Porcek, Executive Vice-President of Bridge Industrial; Karl Pehnke, P.E., its traffic engineer; John McDonough, L.A., P.P., its planner; Bryan Waisnor, P.E., its project engineer; Benjamin Mueller, P.E., its acoustical expert; and Michael Baumstark, R.A., its architect testified on the Applicant's behalf. The Applicant's witnesses' testimony is summarized below.

19. The following Township staff and professionals gave advice to the Board at the hearing:

David Novak, P.P.; Dan Dobromilsky, L.L.A.; Francis A. Guzik, P.E.; Jeffrey A. L'Amoreaux, P.E.; Christopher B. Jepson, P.E.; Gerald J. Muller, Esq. and Martina Baillie, Esq.

20. Fifty members of the public made statements during the course of the hearing. The statements are summarized as follows<sup>1</sup>:

- Kip Cherry, Sierra Club, 145 Hanover Street, Trenton, noted that there are some economic benefits from the proposed project but also very concerning environmental impacts from the congestion. Ms. Cherry offered several conditions for the Board's consideration, including preparation of an access management plan, automated arrival and departure system, additional storm water management, additional solar and green infrastructure, and use of best practices to reduce diesel truck emissions.
- Doreen Garelick, 24 Indian Run Road, referred to the Stipulation of Settlement and Consent Order, noting the intent of the planned commercial district listed in Exhibit E, and urged the Board to consider other permitted uses for the Site.
- Lynda Benedetto, General Manager of Quaker Bridge Mall, representing Simon Property, noted an error in the Applicant's traffic testimony, that the number of parking spaces in the Mall is 5,545, not over 6,400. Ms. Benedetto commented that the landscaping along Quakerbridge Road is not adequate and would be unsightly. She commented that the plans

<sup>1</sup> The addresses of the speakers, where given by the speaker, are in West Windsor, except where noted. Where no address appears, it was either not given by the speaker or could not be discerned from the audio recording of the hearing.

presented to the Mercer County Board of Commissioners by Mercer County staff, entitled Bridge Point Eight Industrial Park West Windsor New Jersey, contained inaccuracies [the Applicant noted that it was not involved with the creation of that document and was not contacted about it], including that the incorrect designation of the flyover bridge connecting the Mall to U.S. Route 1 as State-owned, whereas it is privately owned by the Mall.

- James Mitchell, of Hambro & Mitchell, 12 Stulz Road, Dayton, appeared to represent the owners of Block 8, Lot 13, asked on behalf of his clients whether the proposed road improvements would in any way restrict the access to Lot 13. Mr. Pehnke clarified that the improvements along Clarksville Road would not extend to that property, and would not cause any restrictions. Mr. Mitchell also asked that the connector portion of the Duck Pond Interceptor be completed by the time of the first building permit. Mr. Guzik agreed to recommend this as a condition to the Board.
- Joanne Pannone, 215 Meadow Brook Road, Robbinsville, Chair of the New Jersey Sierra Club Mercer County, expressed concern about the dangers to pedestrians from the development, the air quality impact and need for more trees to help offset greenhouse gas emissions.
- John Mulcahy, 2 Hereford Drive, Princeton Junction, expressed concern about safety resulting from increased truck traffic particularly for children, and recommended banning trucks on Clarksville Road and other municipal roads and also having a speed bump in front of Maurice Hawk Elementary School.
- Warren Mitlak, 5 Stonlea Drive, stated that the proposed project would not be good for the residents or businesses of West Windsor, the increased trucks would make the roads more dangerous, and reduce the quality of life and make West Windsor less desirable.
- Bruce Perrine, Village Road West, expressed support for the project, commenting that it would not increase the tax burden or require more municipal services, and it will create more jobs and tax revenue.
- Leo Dias commented on the environmental and health damage from carbon emissions and asked whether the Applicant had provided any calculation of the potential air pollutants from the project and whether a more comprehensive look at the air quality impacts from the project had been done.
- Jeffrey Shore, 9 Strathmore Place, asked how old the storm water management studies that were done for the application were and what is being done to anticipate ever-changing climate conditions. He asked whether the project was not in violation of the terms of the ordinance and settlement agreement. Mr. Shore also expressed concern over road safety from increased truck traffic.
- Max Deetjan, 14 Indian Run Road, asked who owned the Clarksville Road Bridge over Amtrak and expressed concern over the detour that would occur during the reconstruction of the Bridge.

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- Sophie Glovier, 31 Titus Mill Road, Pennington, Watershed Institute, asked how the project's proposed storm water management system would handle 9.3 inches of rain, the current the 100-year storm rainfall, and how it would handle extreme precipitation, and what would happen if the infiltration basins do not function and there is an overflow.
  - Alexandria Iturriza, 31 Arnold Drive, requested clarification as to which roads the trucks could use and which jurisdiction would be responsible for maintenance of the improved Clarksville Road. She asked whether West Windsor had considered purchasing the Site for open space.
  - Maya Kamath, 14 Shadow Drive, expressed concern over road safety and increased air pollution, and asked when the traffic studies were done.
  - Anthony Eltvedt, 10 Windsor Drive, Princeton Junction, expressed concern about safety around the schools and other facilities and asked what safety measures would be in place on the Clarksville Road crossing.
  - Jonathan Sasportas, Sapphire Drive, expressed concern about increased traffic as a result of the project and asked whether more solar infrastructure could be provided to offset the environmental impacts.
  - Toby Arias, 20 Indian Run Road, Princeton Junction, expressed concern about trucks coming south on Clarksville Road, into the warehouse site and the impact on the schools in West Windsor of trucks going by.
  - Jordan Hoogsteden, 2 Edith Court, Princeton Junction, requested clarification as to the length of widening of Clarksville Road, and whether there could be further widening. He expressed concern over the safety of the roads.
  - Benjamin Trokenheim, 7 Fairway Drive, West Windsor, expressed concerns over the increased truck traffic, safety and potential for accidents.
  - Gary Patton, 207 Trinity Court Apartment, West Windsor, compared the proposed plan to the Seabrook New Hampshire Nuclear Power Plant to illustrate "unrealistic optimism about possible benefits" of the proposed project.
  - Khurram Waheed, 286 Clarksville Road, queried why the settlement agreement had been signed without any consideration of public opinion, whether any other business alternatives had been discussed with Atlantic regarding use of the property, and whether a feasibility report was done with respect to the tax impact of the project, and the cost of the new utilities.
  - Benjamin Finkelstein, 43 Arnold Road, asked whether public opinion would be considered in this application and if any aspect could be put to a referendum.
  - Stacy Karp, 37 Cartwright Drive, queried what consideration had been given to pedestrian safety and how the restriction of trucks on Clarksville Road would be enforced.

- Lakumi Dias, 19 Saratoga Drive, urged the Board to consider the health impacts of the development and consideration of an alternative open space acquisition.
- Stacey Fox, 29 Berrien Avenue, expressed concern about the manner of public hearing regarding the settlement agreement, about the lack of analysis of the impact of gas emissions on school children, and asked how much Clarksville Road would be widened to accommodate the project.
- Ajay Kaisth, 20 Haskel Drive, expressed concern about the negative impact of the project on the character of West Windsor, on property values and quality of life, and asked whether the trucks would be allowed on Village Road.
- Tirza Wahrman, 5 Stonlea Drive, asked about the status of the Applicant's DEP applications.
- Niyatendra Tripathy, 4 Plymouth Road, expressed concern over the impact of an increased labor pool on the housing stock, and over the effect of smaller supply trucks accessing the warehouse.
- Kristine Flynn, 8 Sapphire Drive, expressed concern over the affect of the project on emergency response times for emergency vehicles, and on how the limits on truck routes would be enforced.
- Catherine Bernard, 18 Birchwood Court, asked whether there had been any study of the impact of the project on home values and property taxes in the Township and commented that a councilwoman who ran alongside the Mayor in the last election had represented that no warehouses were planned for the Site.
- Kevin Ranallo, 106 Harris Road, asked for clarification on whether signage prohibiting trucks from turning onto Clarksville Road in the direction of West Windsor could be enforced by the Township, and also required what measures would be taken to increase safety for traffic coming off U.S. Route 1 onto Quakerbridge Road.
- Padma Katapalli, 41 Ketley Place, inquired whether the West Windsor school district administration was informed about the project and what consideration had been made with respect to pedestrian and bicycle safety along Clarksville Road, especially in the vicinity of the schools.
- Prathima Ignatius, 353 Clarksville Road, stated that the project would cause residents to leave West Windsor and urged the Board to deny the project.
- Paul Larson, 170 Darrah Lane, Lawrence Township, commented on the impact of the truck traffic from the project on Lawrence Township and expressed concern about certain historical monuments around Quakerbridge Road that had disappeared.
- Lynda Levy, 6 Lancashire Drive, commented that residents were not really aware at the planning stage of the project about the impact the trucks would have on West Windsor, and that the impact would cause a "mass exodus" out of West Windsor. She queried what impetus the county would have to prohibit truck traffic along Clarksville Road.

- Willa Inlender, 3 Carlisle Court, Princeton, expressed concern that if the Board approved the project, it would be hard for the County to stop its progress, the cons of the project outweigh the pros, and she urged the Board to consider the legacy of approving the project.
- Noah Levy, 6 Lancashire Drive, noted that he is an experienced transportation engineer, expressed disbelief over the proposal to construct four intersections within a two-mile portion of the Site, expressed skepticism that trucks would honor signage restricting traffic on Clarksville Road, and asked the Board to restrict use of jake breaks by the trucks due to their noise level.
- Amy Hoffman, 7 Fairway Drive, expressed skepticism that truck travel could be restricted on Clarksville Road, and urged the Board to consider the impact on safety of the project.
- Allison Miller, 41 Windsor Drive, expressed concern over pedestrian safety on Clarksville Road and the need for truck speed limits to be enforced, and asked how truck traffic could be kept away from the intersection of Cranbury Road and Clarksville Road.
- Judi Strober, 5 Quail Ridge, stated that she opposed the application and questioned why no other uses had been considered for the Site.
- Leslie Dias, 19 Saratoga Drive, asked whether consideration was given to other permitted uses on the Site and urged the Board to deny the application.
- Brunda Dias, 19 Saratoga Drive, urged the Board to consider the impact of the project on the homes of West Windsor residents.
- Florence Deetjen, 14 Indian Run Road, urged the Board to deny the application due to the impact on the residents and the town, and especially younger generations.
- John Vidulich, 27 Arnold Drive, urged the Board to consider the health and safety of the community.
- Ana Lomba, 2 Hereford Drive, expressed concern that the quality of life in the Township would go down as a result of the development.
- Paul Meers, 29 Berrien Avenue, expressed concern over the impact of diesel exhaust and emissions on the community.
- Francois Guillemin, 554 Meadow Road, expressed concern about the monolithic character of the project and lack of diversification of use.
- Justin Richmond queried how the Township would work with the County.
- David Cook commented on the value of open space.
- Victor Wei stated that the Mayor should not be permitted to vote on the application because he runs a warehouse and questioned the validity of the traffic counts and traffic analysis,

querying why traffic counts for Princeton Hightstown Road, Clarksville Road North and Village Road were not included.

- Sridhar Yada, 357 Clarksville Road, urged the Board to consider the residents' concerns and emphasized the importance of keeping trucks off Clarksville Road.

Testimony of Applicant Witnesses

*John Porcek, Executive Vice-President of Development for Bridge Industrial*

21. Background and Qualifications. The following testimony by Mr. Porcek, duly sworn, is summarized: Mr. Porcek testified that he has been in the construction development business for over 35 years, most of which has been in the industrial space. Bridge Industrial ("Bridge") was founded in 2000, now with several U.S. offices and most recently growth into the U.K., and has developed over 67 million s.f. of industrial space throughout the country. Bridge's focus is strictly industrial. It develops, leases and manages property, and also has an in-house property management division.

22. Mr. Porcek testified that West Windsor is "an extremely great location for industrial [development]" due to the robust roadway network and interconnectivity with the interstate and roadway network. He explained that this project is a collaboration with Atlantic, from which the property will be leased, with Bridge managing the property long term. Bridge will have a ground lease from Atlantic and will own the buildings, which will be rented to tenants.

23. Mr. Porcek stated that many meetings have taken place over the past nine months with the municipality's Technical Review Committee ("TRC") to discuss the plans and make modifications based on feedback, such as extensive landscaping (addressed more fully in Mr. Waisnor's testimony below), and other components of the project described below.

24. Mr. Porcek described the approach of building "on spec," meaning that tenants are attracted at some point during or after the construction, but generally not before. He testified that Bridge builds on spec because it gives it the ability to show prospective tenants how the facility will operate and look, as tenants do not necessarily have preconceived ideas of what they need. Examples of tenants include a company called Boxed at a storage/distribution facility along Route 78, the apparel company Uniqlo, a beverage distribution company called Mark Anthony Brands, and Scott's Lawn and Garden products. Bridge seeks financially stable and long-term tenants. The buildings are usually leased as soon as significant earth work and construction is



begun, at which point a leasing package is prepared. In other words, the building is already leased during construction. The buildings can be devised to accommodate multiple tenants, or a single tenant, with the minimum subdivision of a building being around 200,000 s.f. The proposed warehouses are contemplated as dry storage.

25. Mr. Porcek conjectured that Phase I could take two years to complete and Phase II would be another two years, with construction of the buildings to occur sequentially, from building to building. The intent would be to come back for Phase II final approval once construction on Phase I has begun.

26. Bridge would provide property management, including maintenance, landscaping, snow plowing, etc. Trash removal would be left to tenants. Mr. Porcek confirmed that the use would be strictly storage and distribution.

*Bryan Waisnor, P.E., Langan Engineering and Environmental Services, Inc.*

27. Qualifications and Background. The following testimony by Mr. Waisnor, duly sworn, is summarized: Mr. Waisnor testified that he is a licensed professional civil engineer in New Jersey whose license is current, with an M.S. in Civil Engineering from Virginia Tech and 25 years' experience at Langan practicing civil engineering on industrial projects. The Board accepted Mr. Waisnor as an expert witness.

28. Mr. Waisnor described the property with reference to an aerial photo in Exhibit A-1, including the configuration of tax lots, aspects of the prior facility operated by American Cyanamid (including now decommissioned wells and treatment plant), and the zoning, noting that warehouse and distribution uses are encouraged within the part of the district away from the U.S. Route 1 corridor, which is intended for the retail and commercial development.

29. Mr. Waisnor described the proposed subdivision with reference to Exhibit A-2, distinguishing the warehouse lots from the five "red" lots along Quakerbridge Road and Route 1 for commercial development at a later stage. In addition, two lots will be created to allow for the construction of the Master Plan Road that will transverse the development. Preliminary names for the two portions of the road are Coleman Drive and Doherty Drive, in recognition of two local farmers. The road will be privately owned but open to the public, and may be dedicated for public use in future.

30. Mr. Waisnor took the Board through Exhibit A-3, showing Phase I of the development. The buildings are called "cross dock buildings" because there are loading docks on the two longer sides and auto/employee parking at the two ends of the building. Each is designed with office space in each of the corners to provide for the possibility of more than one tenant, with parking adjacent to the offices. The design builds in flexibility, providing good circulation so as to be able to access all ends of the building. The idea would be to work with prospective tenants to determine their office needs. Exterior features of all building corners will be the same regardless of office needs.

31. Mr. Waisnor testified that the infrastructure required for the entire project is being built as part of Phase I, with the exception of the New Jersey Department of Transportation (NJDOT or DOT) driveway to U.S. Route 1 because the DOT takes a long time and if the permit is not completed by the time Phase I is done, then the Master Plan Road would be built up to the end of Building E-1 (the warehouse closest to U.S. Route 1), whereas all the service would be provided off of Clarksville Road. Discussion of this aspect and concerns expressed by Board members as to the timing of the DOT access point was deferred to the traffic engineer's testimony. It was also made clear to the Board members that exclusion of the U.S. Route 1 intersection was not previously discussed with the Board's professionals nor raised at any of the TRC meetings.

32. With reference to Exhibit A-4, Mr. Waisnor described the full build out of the Bridge Point project at the completion of Phase II, pointing out that all seven warehouse buildings are compliant with height, setback and coverage requirements. He clarified that a certain amount of infrastructure that would be anticipated for the eventual commercial development along Quakerbridge Road, such as traffic, water and sewer, is being "baked into the warehouse development."

33. Mr. Waisnor described the environmental constraints, as shown in Exhibit A-5, such as the Greenbelt located in the northeast corner, wetlands as confirmed by a DEP LOI (in connection with which an application was filed prior to the current LOI expiring in March 2022) and much of which overlaps with the Greenbelt, groves of trees south of Clarksville Road, a flood hazard area at Duck Pond Run, and a Ground Water Classification Exception Area (CEA). Using DEP and FEMA models as a baseline, the flood hazard elevations were modelled to show the extents. Mr. Waisnor noted that the DEP determined there to be no threatened or endangered species on the site. Exhibit A-6 shows the environmental constraints overlaid on top of the site plan, and that the location of the Master Plan Road was driven by the constraints. Mr. Waisnor emphasized that avoiding the environmentally sensitive areas was of paramount importance.

There are minimal crossings where the Master Plan Road runs through the Site. Some floodplain impact is expected with respect to the widening of Clarksville Road, and there will be storm water outfalls, but the Applicant had applied for DEP permits to impact the wetlands and put in these outfalls. So that's all part of the DEP application that's pending that was submitted in March.

34. Mr. Waisnor explained that minor disturbance is expected from the sewer line being put in as part of the Duck Pond Run Sewer Interceptor, which will provide a possible sewer connection for the athletic club east of the Site, and the installation of a walking trail shown in the Master Plan that would connect with other potential walking trails in the Duck Pond Run watershed area. 173 acres out of the 539 acres being developed will be completely untouched, about a third.

35. Mr. Waisnor described the Truck Auto Circulation exhibit, A-7, illustrating the parking areas and circulation, and how traffic will flow through the site, as further discussed by Mr. Pehnke, summarized below. The Master Plan Road is envisioned as one lane in each direction with a center median or turn lane for turning movements all the way down to Avalon, and shoulders. Each building will have circulation driveways around it that could be shared by cars and trucks, but there are also dedicated truck driveways for trucks only as it is preferable to keep automobiles and trucks separate. Mr. Waisnor explained that the colors on the Exhibit show the different areas for car versus truck parking, and pink areas are trailer parking areas. He illustrated the movement of trucks waiting to go into the dock or being stored, waiting to get loaded up. The green areas are the loading docks, where the trucks would back up so that product is either loaded on or off the trucks. The yellow areas are the land banked parking spaces, of which there will be 200, and which will be left as lawn and if they are needed for parking later on, permission to build will be requested. The banked spaces were built into the impervious cover calculation even though they will not be paved. Mr. Waisnor testified that the proposed number of parking spaces, 2,201, was based on the industry standard of approximately one space per 2,500 s.f. of warehouse space, significantly higher than the ordinance standard of one space per 5,000 s.f. of warehouse space, which is a set standard, not a minimum or maximum, and that the proposed number was worked out with municipal staff. The parking is allocated proportionally to each building. By land banking 200 spaces, the proposed number of parking spaces is actually closer to the ordinance standard.

36. Mr. Waisnor described two additional driveways proposed for Building D1 on the north side of Clarksville Road and one on the south side of Clarksville Road for Building B2-1. These

would not permit left turns out onto Clarksville Road, only left turns in and right turns in, and right turns out. Mr. Waisnor testified that there would be no restriction on cars and trucks entering any specific driveway shown on the plan. He conjectured that for Buildings C1 and E1, because the driveways onto Clarksville Road align with the auto parking, they are more apt to be used by automobiles than trucks, which would more likely use the traffic signal at the Master Plan Road/Clarksville Road intersection to access the loading docks because they could do so without going through auto parking areas. It is noted that the Board imposed several conditions with respect to this aspect of the plan, as noted in the Findings below.

37. Mr. Waisnor testified that a 10-foot-wide bike path would be constructed in accordance with the County Mobility Plan and would run the length of frontage along Clarksville Road and along Quakerbridge Road up to the U.S. Route 1 interchange. In response to a Board member's question, he agreed that the Applicant would look into having the path commemorated in some way and connecting it to the existing sidewalk that crosses the Amtrak line.

38. *Storm water management.* Mr. Waisnor described the stormwater management plan in some detail, with reference to Exhibit A-4. Mr. Waisnor described the plan as a "very robust storm water system" due to the significant amount of environmentally sensitive areas and the fact that the Site uniquely drains both to the northeast to Duck Pond Run and to the south east Shipetaukin Creek. The following are proposed: 104 storm water features on the Site. That includes 82 small scale bioretention basins, of which 64 recharge directly into the ground and 18 have under drains. Three large scale infiltration surface basins are proposed, the locations of which were determined by the existing conditions and the way the storm water flows. Two constructed wetlands; two large scale subsurface basins and 15 different areas of permeable pavement that cover approximately 11.5 acres. That permeable pavement is about 70% of the trailer parking, meaning the trailer portion of the trucks, not the trucks themselves. It would be concrete, but the water that runs onto it would either recharge into the ground or recharge by filtering through an under-drain that would take it to another one of the features.

39. This proposed storm water management plan "significantly exceeds" the DEP and the Township's recharge quality and quantity requirements. It was calculated that 10 million cubic feet of water falls and goes into the ground annually, whereas 12,300,000 cubic feet of water would be recharged annually with this project – about 23% more – by capturing the water and putting it in certain areas to be able to percolate into the ground.

40. In terms of quality, DEP regulations require 80% of “total suspended solids” (“TSS”) to be removed, DRCC requires removal of 95% of TSS during the water quality storm event, and the project is actually removing 100% of TSS from what goes to the Delaware and Raritan Canal. This is achieved by building oversized basins that will soak up all the water so that there is no discharge to the system from the water quality storm. “We’re essentially absorbing the water quality storm instead of sending it off site.” That is achieved through bio-retention basins and large infiltration basins and through permeable pavement.

41. While some storm water facilities will be shared by Phase I and Phase II, all of the Phase I infrastructure being built will be compliant with recharge, quality and quantity requirements.

42. In terms of quantity, which has to be measured as well, the proposed storm water infrastructure will decrease the volume of storm water that goes into Duck Pond Run by 80% by directing it into the basins and into the ground. The standard reductions required for the 2-, 10- and 100-year storms will be exceeded. For example, on the north side of the Site, for the 100-year storm, only 12% of what goes there today will be discharged, compared to the 80% permitted.

43. Mr. Waisnor commented on the two storm water-related waivers being requested with respect to the shape of the basins and limit on how much of the basin may be within the front yard buffer. Regarding the shape of the basins, while not in strict compliance, the proposed plan meets the intent of the ordinance because the basins will be planted with many shrubs and trees within the basin itself. So, while they will function as basins, they will not appear as unnatural rectilinear features dotted throughout the project. With respect to the buffers, the reasons that the basins along Clarksville Road fall more than 50% within the buffer is that they will be taking runoff from Clarksville Road into the basins, treating the storm water at the source, rather than having to move the water across the site. In addition, a lot of planting and berms are proposed between Clarksville Road and the building, which would not be possible if the runoff had to be redirected. So, there will be a sufficient buffer and the basins will serve an important storm water function in their proximity to Clarksville Road, meeting the intent and spirit of the ordinance.

44. Landscaping. Mr. Waisnor described the landscaping plan with reference to Exhibit A-9, showing cross-sections of Clarksville Road, the berms and basins on either side, and the front yard buffers. He said particular emphasis was given to shielding views along the public corridors and creating a holistic and attractive facility from all perspectives. Berms ranging from 10-17 feet high will be installed on either side of Clarksville Road, and vegetation will be planted on

top of those. For Quakerbridge Road, although the development along the road is not known at this time, for now both landscaping and a fence was proposed, but that will most likely be obscured by the commercial development there.

45. In total, over 20,000 new trees and 24,000 shrubs are being planted, plus many acres of meadow mix. Much of the former agricultural fields are being “reclaimed” rather than landscaped, which will be by a combination of trees and shrubs. This will actually provide more potential habitat and foraging areas for birds and wildlife in the area compared to the large farm fields there now.

46. Mr. Waisnor addressed the tree-related waivers, first with respect to the requirement to identify all trees over five-inch caliper. Rather than do this for all of the many trees on a 645-acre property, the Applicant worked with the Township to grid out a certain area to estimate the number of trees on site that would be disturbed by the project. This will provide a way to quantify the number of trees. With respect to the requirement to put four-inch caliper trees every 40 feet along the perimeters of the buildings, what is proposed are larger caliper trees planted 100 feet from the buildings, which will be proportional with the size of the buildings.

47. Lighting. With reference to Exhibit A-11, Mr. Waisnor described the proposed lighting plan. Site lighting, whether free-standing or on the building, will be 25 feet high, LED fixtures. Exhibit A-11 shows the light intensity by color, with blue along the perimeters being zero, and a few red areas being the highest intensity. There will be zero footcandles along most of Clarksville Road, where the berms will buffer the structures from the road, whereas more lighting is needed at the intersections. The parking lot areas and truck courts will have a minimum of 0.5 footcandles, as recommended by the Illumination Engineering Society of North America. The average is higher than the ordinance standard, triggering a waiver request.

48. Mr. Waisnor testified that without knowing who the tenants will be, it was hard to determine specific hours of operation and so it was not possible to state whether certain lights can be shut off. However, the overall lighting of the site is very insulated, with zero light spillage around the perimeter of the individual building lot lines. Even for Building A1 in the south eastern corner there are a few hundred feet of woods buffering the distance to the next property and no light impact on the surrounding properties is expected.

49. Utilities. The utility infrastructure will consist of a new water line that will run from U.S. Route 1 through the Site across Clarksville Road, down the Master Plan Road and to the

connection with Quakerbridge Road and Avalon Way. A replacement main that will be dedicated for public use is being installed along Clarksville Road, which is being coordinated with New Jersey American Water. Fire hydrant locations are subject to the review and approval of the municipal fire official. In terms of sewer, the Applicant will be constructing the Duck Pond Run Sewer Interceptor, which runs from just south of U.S. Route 1 to a point just north and east of the Site. The pipes will be designed to take flow from the full buildout of Phases I and II, but also the adjacent commercial space. Two pump stations are being installed. The sewer system will be privately owned and maintained, but the Duck Pond Run Sewer Interceptor will be built to Township standards and dedicated as it will serve other sites as well. All other utilities on Site, i.e., gas and electric, will be underground. The existing utility lines along Clarksville and Quakerbridge Roads will remain and be relocated.

*Benjamin Mueller, P.E., Acoustical Consultant*

50. Qualifications and Background. The following testimony by Mr. Mueller, duly sworn, is summarized: Mr. Mueller testified that he is a licensed Professional Engineer in New Jersey and Oregon. He has a graduate degree in mechanical engineering with a concentration in noise and vibration control from the Stevens Institute of Technology. He is with the firm of Ostergaard, an independent acoustic consultancy that specializes in noise and assisting in a variety of projects such as warehouses, generators, and dog kennels. The Board accepted Mr. Mueller as an expert witness.

51. Methodology. Mr. Mueller testified that his firm was retained to provide more detail requested by municipal staff about the noise impact of the project. He explained that he first looks for “areas of concern,” does analysis and tries to forecast what future sound emissions might be. Mr. Mueller identified as the main areas of concern the two pockets of residences to the south of the Site, both beyond the active Amtrak railroad, and a pocket of dense residences to the east.

52. Mr. Mueller described the daytime and nighttime noise State regulations, which are mirrored by West Windsor’s ordinance. From 7AM – 10PM, the permitted noise level is 65 dBs; from 10PM – 7AM, it goes down to 50 dBs.

53. Given these limits, Mr. Mueller assessed the impact of the main noise sources on site, HVAC and truck activity, starting with Phase I analysis. For Phase I, with respect to HVAC noise, assuming the system runs 24/7, Mr. Mueller testified that these do not raise a concern

given the distances of the residential dwellings from the noise source: the closest is 900 feet to the west; 1,500 feet to the south and over 2,000 feet to the east. Given those distances and taking all buildings together, Mr. Mueller testified that the levels would be below 40 dBs. With respect to the truck activity, the types of noise varies much more. There is coupling, when the trailers connect and disconnect; air brakes; backup alarms; and truck driving, a more broadband frequency. Truck court noise is estimated at roughly 74-79 dBs at a 50-foot distance. Taking Building C1, with a distance of 900 feet to the closest residences, the noise level would be fully compliant. The three buildings in Phase I are in the middle of the property, not close to any off-site receptors and virtually nothing changes as a result of the development with respect to noise impact on those properties. No mitigation would be needed.

54. With respect to Phase II, the main area of concern is Building A1 in the south eastern corner of the Site. The trailer court, the area deemed the closest position a truck of high activity would be, is about 300 feet from the nearest residence to the east, with sound levels estimated to be in the high 50s dBs without the sound barrier. The distance is about 800 feet to the nearest residence to the south across the railroad, with sound levels of about 53 dBs without the sound wall. With reference to Exhibit A-12, Mr. Mueller testified as follows: on the east side of the building at a distance of 300 feet from the nearest residences, the Applicant will be installing an approximately 470-foot-long, 20-foot-high sound wall around the trailer parking area; on the south side of the building, approximately 800 feet from the nearest residences will be a 530-foot-long 15-foot-high sound wall. With the sound wall, the sound emissions from truck activity in the truck court and dock area will be reduced to below 50 dBs. In other words, the application would be within compliance with respect to those developments. The proposed walls will not be visible to those developments. The walls will be made of concrete (or approved acoustical equal), gray in color, sufficiently dense to block sound from going through it, and tall enough to prevent sound going over in the flanking paths. The wall would not in any way amplify the sound of the passing trains. The walls are, in Mr. Mueller's view, the "safest and most uniform" type of sound mitigation measures.

55. Mr. Mueller clarified that the proposed sound walls are to address truck noise only, not the HVAC on top of the buildings. The off-site sound emission from HVAC for Phase 2 is below 40 dBs, not the same order of magnitude as intermittent truck activity. Also, the noise levels are logarithmic. To illustrate, if the HVAC of a building is 35 dBs and another building is added with the same db level of HVAC, the result is not 70 but more like 38 dBs.

*Karl Pehnke, P.E. (Langan Engineering and Environmental Services, Inc.), Traffic Engineer*



56. Qualifications and background. The following testimony by Mr. Pehnke, duly sworn, is summarized: Mr. Pehnke testified that he is Vice President with the firm of Langan Engineering and Environmental Services, Inc., a licensed Professional Engineer in New Jersey and numerous other states whose license is current and has 35 years of experience in traffic engineering. The Board accepted Mr. Pehnke an expert in traffic engineering.

57. Mr. Pehnke testified that he was “very familiar with the Site” and had worked with different owners of the property on planning of the Site for “probably over 17 years” and so had accumulated a lot of information about it and with the surrounding roadways. He indicated that he was also familiar with the Site because it is part of his daily commute, so he is personally familiar with the traffic patterns, flows and regulatory signs and conditions that surround the Site.

58. Traffic study. Mr. Pehnke explained that the purpose of the Traffic Impact Study is to evaluate the design and development of safe access from both an operational and geometric standpoint, and to evaluate the distribution of traffic and impact on surrounding roadways.

59. Mr. Pehnke testified that although the COVID-19 pandemic has created a “new normal” in terms of traffic volume data and that current traffic counts are still down, a significant amount of data was used to prepare the traffic study, including data from 2005, and it covers several years, including data from 2021. Mr. Pehnke clarified that pre-COVID traffic numbers were used to come up with a “very conservative look” at the projected traffic flows. Explaining the methodology, he testified that a sampling of the traffic flow was based on data from several traffic engineering sources, including for example the nearby Costco site, Quakerbridge Mall development, data collected over the years by the Delaware Raritan Regional Planning Commission (DVRPC), and the DOT. This data is then used to project the amount of traffic likely to be generated, with reference to a “source document” known as the “Trip Generation Manual,” a national database managed and published by the Institute of Transportation Engineers and relied upon by transportation professionals to prepare traffic projections for new developments. The Trip Generation Manual is based on an accumulation of traffic counts conducted at similar facilities. He explained that he then looks at existing traffic patterns and estimates where the traffic for the new project might come from, taking into account “five cardinal directions” in which traffic will dissipate and using demographic data to estimate where workers may be travelling from. Finally, the traffic is modelled to evaluate the operation of a roadway based upon its geometry. The data and projections are plugged into the model to come

up with an assessment of the relative impact of traffic from the proposed project, taking into account the different conditions projected to exist at both Phase 1 and Phase 2 so that the proposed roadway system and access will work for a full buildout. Mr. Pehnke explained that the traffic study also addresses the buildout of the commercial uses to be developed later on (but which are not part of this application).

60. In terms of assumptions about the proposed use of the facilities, Mr. Pehnke testified that the proposed warehouses fall into a category referred to as “high cube transload warehouse distribution facilities,” which are highly mechanized buildings generally requiring low levels of employment and parking, a category that “is a relatively low traffic type generator.” For the traffic study analysis to be conservative, Mr. Pehnke explained that data under land use code 150 (warehousing) was used (as published by the ITE Trip Generation), which is actually a higher level use than what is being proposed, to ensure that the road system will work and could accommodate some variation in employment levels.

61. Traffic counts. Mr. Pehnke provided the following approximate traffic counts from the traffic study, at full buildout of the 5.5 million square foot of warehouse space:

A.M. peak - 7:30-8:30*	720/hr	Vehicles travelling to the Site
	200/hr	Vehicles travelling from the Site
P.M. peak – 4:30-5:30*	280/hr	Vehicles travelling to the Site
	721/hr	Vehicles travelling from the Site

*\*Mr. Pehnke explained that the peak periods can vary from day to day. The evening, peak, for example, can also be 4:45-5:45PM. But the peak is generally only an hour-long window.*

62. Mr. Pehnke acknowledged concerns expressed by the Board and the public about the large size of the project. In this respect, Mr. Pehnke provided some comparables to help put things in perspective. The Site, he conjectured, is probably larger than Quakerbridge Mall, Mercer Mall and Nassau Park *combined*; yet, whereas the project proposes approximately 2,200 parking spaces, Nassau Park has 4,900 parking spaces; Quakerbridge Mall has 6,650<sup>2</sup>; Mercer Mall has 2,300, and Costco has just over 750 spaces. Whereas the proposed project is expected to generate approximately 4,000-4,100 trips a day by vehicles both entering and exiting, Nassau Park generates around 19,000 vehicles entering and exiting per day; Quakerbridge Mall, when

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<sup>2</sup> A correction of this figure was given by Lynda Benedetto, General Manager of the Quakerbridge Mall, who indicated in her public comments at the June 1, 2022 meeting that the number is actually 5,545 parking spaces.

fully occupied, generates over 17,000 such trips per day; Mercer Mall generates 10,000 trips per day; and Costco around the same as the proposed project, 4,000 per day entering and existing. These numbers were offered with the caveat that they do not break out the numbers of trucks going to these sites, which also are mostly retail, and Mr. Pehnke conceded that the truck numbers are not on the order of a logistics center such as the proposed project.

63. Mr. Pehnke broke down the types of vehicular traffic in terms of both trucks and automobiles, with reference to Exhibit A-13, "Peak Hour Truck/Auto Distribution," which shows both AM (blue) and PM (purple) estimates at various locations around the Site and surrounding roadways. He noted the following: in the morning peak hour heading west, 114 automobiles and 11 trucks are estimated heading towards the Site from West Windsor down Clarksville Road. In the evening in the same direction, the estimate is 33 automobiles and 17 trucks. In the opposite direction (outbound), in the morning peak hour, 29 automobiles and 11 trucks are estimated and in the evening peak hour, 109 automobiles (the highest egress of automobiles) and 16 trucks. Mr. Pehnke took the Board through several other estimates as shown in the Exhibit.

64. In answer to a Board member's question whether there is a "rush hour" for trucks, Mr. Pehnke explained that the general magnitude of the trucking distribution throughout the day is in line with the hourly basis numbers provided in Exhibit A-13, i.e. there is no truck "rush hour" so to speak, as the truck operations are fluid and flow in a more "continuous movement" throughout the day. He testified that the variable nature of the expected warehouse operations, reflecting the tenants' different operations and work shifts, will likely spread out the traffic throughout the day, "an extreme advantage" in his view. He also explained, in response to a Board member's question, that "hour by hour" data is difficult to obtain for this kind of site and traffic engineers tend to be more focused on peak hour distributions. The "hour by hour" truck traffic, he explained, would "ebb and flow" around the projected volumes provided in the traffic study.

65. A Board member expressed concern that Mr. Pehnke's traffic estimates were "optimistic" and that, given how little is known about where the trucks will be coming from and going to, if the estimated numbers of trucks travelling along Clarksville Road were slightly higher, the result would be a truck passing Maurice Hawk Elementary School "every minute," which would be "unacceptable." In response, Mr. Pehnke reiterated that the estimated distributions are "reasonably indicative" of what can be expected and opined that they are even "on the high side." He further explained that Clarksville Road is a "600 series County Route," which means that it is a permitted truck access route and that under New Jersey law, trucks are permitted to use the quickest route to the national highway access road. He testified that although there is

currently an 18-ton restriction on the road, that restriction is expected to be lifted upon the reconstruction by DOT of the bridge over Amtrak sometime in the next several years, but this expected change was factored into the traffic study. He testified that the replacement of the bridge and lifting of the 18-ton weight restriction would probably be coincident with the completion of the Applicant's first or second building. Until the restriction is lifted, trucks over 18 tons cannot travel on Clarksville Road.

66. Mr. Pehnke reiterated that the estimates presented in Exhibit A-13 are based on ITE standards and demographic data as to where people live and come to work at this location. The truck estimates also factor in the "positioning of this [project] in the market," with some interaction anticipated with industry in Cranbury, connectivity to Route 33 and shore points of Manalapan and Freehold and the I-295 corridor. He concluded, "you can see quickly how that 700 or 800 vehicles dissipates to the road system relatively quickly, which starts to minimize and reduce the point load of traffic impacts of this project," one of the advantages of the location of the site. The projected traffic flows as shown on Exhibit A-13, while there could be some variation as with any project, are a "reasonable estimate" and the "general orders of magnitude [and] distributions are based upon the best available data and are reasonably representative of what we can expect of this project."

67. Road Improvements. Mr. Pehnke testified that the Applicant had met with DOT and submitted an access and street permit application; had met with and submitted an application to Mercer County; and met with municipal staff professionals and incorporated their feedback into the project design and proposed road improvements. He indicated that elements of the County mobility plan were also incorporated, such as the bicycle plan, as illustrated by Exhibit A-4. These elements also include the widening of Clarksville Road along the Site frontage, which is about a mile long, to accommodate five lanes plus shoulders so that there will be a center turn lane with grass medians at appropriate locations, two travel lanes along Clarksville Road leading to and from the Site, and a 10-foot shoulder on either side of the road. Bicycle and pedestrian traffic will be accommodated by 5-foot grass strip and 10-foot path along both sides of Clarksville Road. Additional widening of Quakerbridge Road is proposed to address substandard conditions at the intersection of Quakerbridge and Clarksville Roads, such as the left turn onto Clarksville Road. A third lane will be added along Quakerbridge Road with a 10-foot shoulder along the entire frontage, and further widening to add a bicycle/pedestrian path.

68. The Quakerbridge Road signals at the intersections with Clarksville Road and Avalon Way will be reconstructed to modern standards, to properly accommodate pedestrian crossing.

The intersection of Quakerbridge and Clarksville Roads will be improved by lengthening the left turn storage lane and creating a double left turn, which will result in better operation. Mr. Pehnke testified that the current Level of Service ("LOS") at the Clarksville Road and Quakerbridge Road intersection is LOS E, although there are some LOS F for the left turn movement onto Clarksville during peak hours, with LOS F being the worst and LOS A the best. The proposed widening and reconfiguration of that intersection and reconstruction of the signal will bring the operation to LOS C and D, and the LOS F at the left turn movement will be eliminated.

69. No new traffic signals along Quakerbridge Road are proposed, although Mr. Pehnke noted that the traffic study addresses a potential signalization at the Lawrence Station Road intersection, which is affected by a pending separate land use application.

70. Master Plan Road/Route One Access Point. The summary of the following testimony by Mr. Pehnke is prefaced by noting that the Board imposed several conditions with respect to truck traffic on Clarksville Road and the timing of the Master Plan Road connection that materially modifies the proposed plan as described by Mr. Pehnke.

71. Mr. Pehnke testified that the service road on the northbound side of U.S. Route 1 that ends just south of the Nassau Park "jug handle" is being extended about 2,000 feet north just past the Extended Stay America Hotel on U.S. Route 1, creating over half a mile of an auxiliary lane coming out of the Quakerbridge Road interchange. An acceleration/deceleration lane will be constructed between the acceleration lane at Quakerbridge Road and the deceleration lane at the Master Plan Road.

72. A signal will be constructed at the intersection of Clarksville Road and the Master Plan Road for the safe movement of traffic in and out of the Mater Plan Road, which will serve as a right-in/right-out for U.S. Route 1 access. Mr. Pehnke stated that the main access connections for the Site are Clarksville Road and Quakerbridge Road, which service the regional roadway network. He explained that some driveway connections from the warehouses onto Clarksville Road are proposed, which would permit only left turns in and right-turn out, but no left turns out.

73. Mr. Pehnke testified that the Applicant intended to build once approvals for the proposed roadway infrastructure had been obtained but, in his view, not all the infrastructure was needed on day one. The DOT approval, he indicated, could take anywhere from one to three years. He testified that the Clarksville and Quakerbridge interchange "can handle full build out of Phase 1 and Phase 2 without the connection to Route 1," a connection that becomes more important with the construction of the offices and hotel anticipated in Phase 3, (which is not part of this

application). This would avoid the Applicant being held up from starting any buildings "subject to an agency [DOT] that has no time clock." He testified that this would not change the traffic estimates [as shown on Exhibit A-13] as the traffic would instead use the Quakerbridge Road interchange, and that intersection was tested to confirm it could continue to operate at the expected levels, information that was provided to Mr. L'Amoreaux, the municipal traffic consultant, to be verified. In other words, according to Mr. Pehnke, there would be no spillover on Clarksville Road if the Master Plan Road connection were not available, as trucks would "come down and use Quakerbridge Road and use the slip ramp onto U.S. Route 1 north instead of direct right out."

74. When pressed by a Board member on his opinion that the facility could still operate without the U.S. Route 1 connection even though trucks would take the next most direct path to a terminal, Mr. Pehnke denied that it would make much difference not to have the U.S. Route 1 access for a full Phase 1 and Phase 2 buildout. He stated that this is because, in terms of percentage, that component of the traffic flow does not represent a large impact. Without the Master Plan Road, trucks would come down Clarksville Road and instead use the Quakerbridge Road interchange "until such time as we get the connection completed." Trucks coming from the east side of the development would use the Avalon Way connection at Quakerbridge Road and travel across Quakerbridge Road. "[B]ut the volumes that we're looking at and evaluating just won't change the needle in terms of operations."

75. Mr. Pehnke denied that without the U.S. Route 1 access completed all the truck traffic would be forced onto Clarksville Road. He stated, "[t]here's no argument that [the Master Plan Road-U.S. Route 1 access] is part of the ultimate design and solution of the project we've embraced that we agree to but it is not the primary point of access to this property and it is not a critical component to the development of this property....If you don't have the Route 1 access, this project still works." He went on to explain, "[t]he problem is the development timing. It takes time to get permits, particularly for some particular agencies....So all we're requesting is the recognition and the ability to move forward with construction while we pursue those permits...." In operational terms, this means that, until the Amtrak Bridge is reconstructed and the 18-ton restriction on Clarksville Road is lifted, 100% of the traffic will go west on Clarksville Road towards Quakerbridge Road because there is no other way out of the Site.

76. When asked whether there was a chance that the DOT would deny the U.S. Route 1 access permit, Mr. Pehnke testified that while the Commissioner of Transportation reserves the right to deny access on a highway, even if a developer is entitled from the frontage, a decision

that trumps local jurisdictions, this developer has 1,800 feet of U.S. Route 1 frontage and it meets all their criteria for access along Route 1. So, "there is really no reason to deny a permit."

77. Clarksville Road. Several Board members stated that they did not wish to see trucks coming from the Site and going through West Windsor Township. The Board Chair, Mr. O'Brien, summarized the concern: "I would say categorically, we do not want the trucks from this project going northbound [sic – the direction is actually eastbound] onto Clarksville Road and passing an elementary school and a high school and many private residences." He asked the Board Attorney, Mr. Muller, to comment on the potential to prohibit truck movement from the development onto Clarksville Road. Mr. Muller indicated that the Board has jurisdiction over the access points with respect to the site plan and has the power to impose conditions establishing the directions that trucks can go from the site, so that trucks could be prohibited from turning eastbound onto Clarksville Road out of the development. Mr. Muller indicated that the best course of action would be for the Township to adopt an ordinance to this effect.

78. Mr. Pehnke stated that the County would have to agree to such a restriction as the County has jurisdiction over Clarksville Road. He testified that, if for some reason the County did not concur with a restriction, then the Applicant would be "caught between two jurisdictions." It would require action from both the Township Council and the County governing body. He testified that the Applicant would agree to signage restricting truck access on Clarksville Road and to Title 39 enforcement, but it would be up to the Council and the County to adopt implementing resolutions. The concern, he explained, was that restricting truck movement on Clarksville Road could lead to "unintended consequences" of trucks travelling in a way that was not in the proposed design. In his view, there is "really no safe way to try to start physically prohibiting trucks from turns." You would have "trucks that start to do maneuvers that are unsafe and you'll have trucks that end up overturning and or running over the curb." He also testified, in response to questions from Board members about whether traffic in the other direction, i.e. coming from Princeton-Hightstown Road down Clarksville into the Site, could be restricted, that this aspect could not be controlled by the Applicant, only the outbound traffic could be controlled. "[T]here is really no way to control the inbound traffic," he testified.

79. Site circulation and parking. Regarding access driveways from the Master Plan Road and separation of auto parking from the functional aspects of the warehouse, Mr. Pehnke referred to the testimony of Mr. Waisnor, describing it as "very standard and typical." He elaborated on the proposed number of parking spaces, where 2,201 spaces are proposed, of which 200 will be

banked, whereas a maximum of 1,754 are permitted under the ordinance. Mr. Pehnke stated that the ordinance is “a little bit on the lower end of what generally is done,” and the greater number is designed to provide flexibility for the various types of tenants that could be expected at the site. Using ITE data, the projected number of parking spaces would be 2,170, close to the 2,201 proposed, which will provide for greater safety and a more successful project. Mr. Pehnke confirmed that the Applicant is meeting the required number of Electric Vehicle (EV) charging stations and handicap accessible spaces.

*Michael Baumstark, R.A., Architect*

80. Qualifications and Background. The following testimony by Mr. Baumstark, duly sworn, is summarized: Mr. Baumstark testified that he is a principal at Cornerstone Architect, is a registered architect in New Jersey whose license is current, and has appeared before 20-25 agencies. The Board accepted Mr. Baumstark as an expert witness.

81. Mr. Baumstark described the proposed design with reference to an Exhibit showing Building B1 in color. He explained that the buildings were designed for “high institutional grade quality” to attract high quality tenants and longer leases. The buildings will be LEED certified, with lighting to be LED and all HVAC equipment to be code compliant and energy efficient. The buildings will be solar ready, which Mr. Baumstark explained meant that the buildings will be designed to hold solar panels at 100% of areas not used for other equipment such as air conditioners, exceeding the 40% required by regulation. He testified that the actual incorporation of the solar systems will be evaluated as tenants are identified.

82. Mr. Baumstark described the interior construction with reference to a material board Exhibit A-15. Each building is designed with pre-cast insulation and will be constructed with insulated concrete pre-cast panels. There will be vertical and horizontal reveals with bump out features on all sides. The color scheme will be shades of gray and there will be glass corner features at the location of the offices. The installation of clear story windows will provide natural light throughout the facility. The loading docks will be insulated by a seal so that when trucks back into them no air will escape from the building.

83. Mr. Baumstark testified that there would be three types of signage, monument, instructional and building/address signage. The monument and instructional signage will be on a concrete pedestal base, with masonry features and metal. The raised lettering will be metal or plastic and the signs will be illuminated. The signage on the building will be determined by the



tenants and could be plastic or metal but will not be illuminated. Tenants would be expected to conform to the sign plan proposed with this application, and such tenants would only need to seek additional approval if they wanted something different from the proposed format in this application.

*John McDonough, L.A., P.P., Planner*

84. Qualifications and Background. The following testimony by Mr. McDonough, duly sworn, is summarized: Mr. McDonough testified that he is a project planner, licensed as a Professional Planner in New Jersey, current and in good standing, and is a member of the American Institute of Certified Planners. The Board accepted Mr. McDonough as an expert witness.

85. Mr. McDonough stated that there are “many positives” of this application: the fact that it is a variance free application and one that conforms to the Planned Commercial District requirements; its full compliance with use and all bulk standards, including lot and yard dimensions, area, frontage, width and depth, coverage and height; its relatively modest impact by comparison to the potential residential development once contemplated for the Site, and the economic value of the proposed use, reflecting New Jersey’s “excellent transportation system,” access to major metropolitan areas (New York and Philadelphia) and to ports, and the significant increase in container activity, which began pre-COVID and has only increased with the increased ease of online shopping. The application, according to Mr. McDonough, meets the “intent of the zone,” and bulk requirements, requiring only “relatively modest” relief from the design standards. The Board Planner generally agreed with Mr. McDonough’s testimony.

86. Waivers. Mr. McDonough testified as follows with respect to each of the requested design waivers, with the predicate of all the testimony on the record:

a. Parking spaces. 2,201 spaces are being proposed, including 200 banked spaces, versus the 1,754 spaces required by ordinance (which is an absolute standard, not a maximum permitted). The proposed number of parking spaces meets the operator experience level. The Applicant is an experienced operator that has managed many similar facilities. The Applicant’s experience is relevant for the Board’s consideration of what is reasonable and appropriate. The industry standard also supports the proposed ratio of approximately one parking space per 2,500 s.f. The increased parking does not trigger excessive coverage or runoff. The Applicant

appropriately balances the required impervious coverage and number of parking spaces to create operational efficiencies essential for this land use.

b. Loading docks. 910 loading docks are proposed versus 147 required by ordinance (again, an absolute standard, not a maximum or minimum). Similar to the parking requirement for which the industry standard exceeds the municipal standard, the industry standard in this case is one loading dock per 5,000 s.f. The proposed number of loading docks does not trigger additional impervious coverage and is needed for quick and efficient delivery operations, which is essential to the proposed use.

c. Shape of detention basins. The Applicant proposes regularly-shaped detention basins whereas the ordinance requires naturally/irregularly-shaped basins. The need for the “more gridded pattern as opposed to curvilinear pattern” relates to the nature of the use and layout of buildings, the drainage patterns and land form. The “form follows the function here and results in those operational efficiencies that trigger the [rectangular] basin shape.”

d. Location of basins within buffer. Eight of the proposed basins exceed the ordinance requirement permitting only up to 50% of the basin to be in the buffer. The key justification and mitigation for that is that the basins are going to be planted, so that visually they will blend with the environment and serve the purpose of a buffer by providing a soft green edge to the perimeter of the development.

e. Identification of trees. The ordinance requires identification of trees 5-inches caliper or greater from which relief is being requested. The justification is that a sample will be provided in order to extrapolate an overall number of such trees.

f. Trees of 4-inch caliper for every 40 feet of building planted within 75 feet. Four-inch caliper trees must be planted within 75 feet for every 40 feet of building. Mr. McDonough noted that the waiver is needed due to the building design and the locations of loading and circulation areas. The Applicant will meet that standard within 100 feet with the planting of 350 trees and an exception is requested for the caliper to be 2.5-3 inches. Over 20,000 trees are being incorporated into the property and the development will be “substantially green.” It will be substantially landscaped and beautifully designed to create biomass.

g. Minimum footcandle of 3.0 at driveway intersections and 0.5 average. The Applicant proposes to exceed the average around the property. The interest of public safety supports this

waiver and there will be no light spillage beyond the perimeter or objectionable glare impacting any surrounding neighborhood. With respect to lighting, Mr. Waisnor in his testimony noted that the intent was for the lights in the loading and parking areas to remain on from dusk until dawn until the tenants are known and what operational needs and shifts they may have.

h. Average footcandle of 0.5 throughout parking areas. The Applicant proposes average light intensity for various parking areas of 1.72 footcandles for car parking and between 2.2 and 2.4 footcandles for truck parking. These are justified by the need for safety and maintaining a safe, efficient circulation flow and function around the property. The main concern with lighting is the impact beyond the perimeter and that standard is being met.

i. Signage. The Applicant seeks to exceed the permitted height and size of certain signage. The basis for this requested relief is “essentially the sheer size of the development.” It is designed as a planned integrated industrial development with multiple buildings. The signage relief is essential for safety to provide for safe navigation and visual cues. The proposed monument sign is 60 square feet, where 48 is the maximum, a typical proportion for this type of branding. The proposed scale will provide brand familiarity as part of an integrated model, and serves a safety and way finding function as well. The proposed height of the sign will serve the same purpose, with 16 feet being proposed whereas up to 4 feet is permitted. The sign will include branding, site identification, and the address and number of the building. Relief is also requested to permit street address signage with a height of 24 inches versus the permitted 8 inches. Given the sheer size of the buildings, an eight-inch number on a 100 million square foot building does not make practical sense from a planning standpoint. The proposed size of signs is appropriately proportioned. Finally, the instructional signage is proposed to be 12 feet versus 2 feet permitted. These are wayfinding signs throughout the development. They are reasonable because there is a significant amount of negative space or “backdrop” space, so granting the relief will not create excessive signage, visual clutter and over branding. Their function is to aid safety and navigation, more than advertising.

j. Ten-year vesting. The Applicant requested 10-year vesting of the final approval of Phase 1 and preliminary approval of Phase 2, which is reasonable and appropriate given the size of the project, which will take time to complete. Mr. Muller clarified that if the beginning of construction had not concluded in 10 years from the date of final approval, then an extension would have to be requested.

#### Testimony of Municipal Staff and Consultants

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*David Novak, P.P., A.I.C.P., Burgis Associates, Inc., Township Planner*

87. The following testimony by Mr. Novak, duly sworn, is summarized:

88. Mr. Novak recapped the history of the Site, including its former ownership by American Cyanamid, which vacated the Site in 2014. The Site was, until the Settlement Agreement, located in the ROM-1 District, which permitted research testing analytics and product development, general corporate, administrative, professional offices, data processing and computer centers, limited manufacturing, farming and agricultural uses, mixed uses such as research and development and other business uses, and affordable housing. It was acquired by the Howard Hughes Corporation in 2010, which in 2017 presented to the Board a concept plan for development of approximately 2,000 residential units. Concerns were expressed over this project, which led to litigation in 2018. Atlantic acquired title in 2019 and entered into a settlement agreement with the Township, which contemplated development of 5.5 million s.f. of warehouse space, and up to 150,000 s.f. of retail space. The 2020 Land Use plan was crafted to reflect that settlement agreement and to promote a unified, attractive design on the site while also encouraging a high level of investment. The Land Use Plan sought to push the warehouse and distribution centers towards the interior of the Site and stressed that the retail uses be located along Quakerbridge Road and U.S. Route 1 to maintain the character of that corridor and provide additional screening of the warehouses. Mr. Novak noted that the Land Use Plan placed “large importance” on the construction of the Master Plan Road that would extend through the Site and connect to U.S. Route 1. The PCD zoning ordinance was subsequently drafted to reflect the 2020 Land Use Plan.

89. Board Chair Mr. O’Brien asked Mr. Novak to comment on the fact that the Land Use Element of the Master Plan, with respect to the PCD, recommends that warehouse and distribution centers be limited to the south of Clarksville Road, given that in the proposed development, warehouses would be on both south and north sides of Clarksville Road. Mr. Novak responded that the Settlement Agreement and PCD zoning ordinance enacted pursuant to it controlled the location of the warehouse spaces based on the utilization of setbacks from Quakerbridge Road, from U.S. Route 1 and from residential districts, and allows for warehouses on both sides of Clarksville Road.

90. Mr. Novak requested an update on the future Phase III plans (which are not part of this application), which Mr. DeGrazia addressed by noting that Atlantic was working through some

concept plans, but there was no specific information on that. Mr. DeGrazia noted however that when reviewing the Site for the present application, the Applicant and its experts evaluated the property in terms of maximums permitted under the ordinance to evaluate overall impact.

91. Mr. Novak testified that he had no objection to the Applicant's proposed number of parking spaces or loading spaces, or to the requested signage waivers. With respect to the number of parking spaces, he indicated agreement with the Applicant's expert testimony that the rationale for the proposed number was based on past industry experience as well as ITE standards.

92. With respect to the proposed number of loading docks, Mr. Novak noted that the ordinance standard contained in Section 200-27d(1) of the ordinance lumps together the same loading requirements and standards for retail stores, financial institutions, educational facilities, restaurants, wholesale, warehouse, general service, manufacturing and industrial establishments. Thus, the loading berth requirements cover a wider variety of land uses that group together disparate uses such as warehousing facilities and restaurants.

93. One Board member enquired whether the number of loading docks, if reduced, would result in less truck traffic and turnover on the Site. In reply, the Applicant's traffic expert, Mr. Pehnke, testified that there is no correlation between the number of trips and the loading docks, and it is more the size of the building and tenancy that determines the type of activity and turnover. The "loading docks," he testified, "really relate to the internal operations of the building." Reducing the number of loading docks, he emphasized, does not affect the number of trucks. Reducing the number of loading docks "actually creates operational difficulties both internal and external to the building and actually would really not be consistent with what the logistic buildings are that are being designed and constructed" by the Applicant.

*Francis Guzik, P.E., Township Engineer*

94. The following testimony by Mr. Guzik, duly sworn, is summarized:

95. Mr. Guzik discussed the comments in his report dated May 4, 2022. He indicated that he had no objection to the requested checklist waivers, some of which will be addressed through resolution compliance. He noted that the application was under review by the Mercer County Planning Board, and that if the County made changes to the proposed plan, then there was a

potential that the Applicant would have to come back to the Planning Board for amended approval.

96. Mr. Guzik requested testimony regarding the CEA for groundwater contamination on a portion of the former American Cyanamid operations. Mr. Porcek testified that there is a small environmental area on the southeast portion of the Site where previously there was a research facility involving pesticide research. The area is being monitored with monitoring wells and there are no issues, according to Mr. Porcek. Samples are being submitted to DEP as part of a remedial action plan and the Applicant is "in full compliance." The Applicant agreed as a condition of approval that the monitoring wells will be adjusted to whatever the proposed grade is and would remain in place.

97. In terms of traffic, Mr. Guzik recommended that the pedestrian crossing for the Master Plan Road be provided with a rectangular flashing beacon for pedestrian safety. Mr. Pehnke testified that, upon review of that intersection, it was determined that such a safety feature for pedestrians was not warranted at that crossing due to the low anticipated volume of pedestrian traffic, but the Applicant agreed, as a condition of approval, to install such a beacon if warranted.

98. Mr. Guzik enquired whether there were plans for New Jersey Transit stops to be installed. Mr. Pehnke testified in response that there were not, as the process with NJ Transit is that the determination to install transit stops is usually made after a development is built, based on need, but that the Applicant was continuing talks with NJ Transit as it moved forward with construction and that the Applicant would be willing to work with NJ Transit and become a sponsor, meaning it would own the shelter if it is on private property. Mr. Guzik requested that the Applicant take responsibility for installing and maintaining a bus shelter, even if it is in the public right-of-way (e.g. Clarksville Road). The Applicant agreed to take responsibility for the shelter if the County was not willing to do so and to provide typical construction details for bus turnouts with sidewalks and shelters on the drawings.

99. Regarding the U.S. Route 1 access connection, Mr. Guzik recommended that all construction traffic should be primarily focused to the U.S. Route 1 intersection rather than Clarksville or Quakerbridge Road, and that this be a condition of approval.

100. With respect to storm water management, Mr. Guzik noted that the Applicant would have to obtain DEP, Mercer County Soil Conservation District and DRCC permits, all of which are conditions of approval.

101. With respect to utilities, Mr. Guzik noted that one of the goals of the Master Plan Utility Element is the extension of the south branch of the Duck Pond Run Sewer Interceptor, and that the Applicant had agreed to provide a stable access way to the remote and environmentally sensitive portion of the sewer line system, to the extent permitted by DEP.

102. With respect to the lighting plan, Mr. Guzik testified that he had no objections to the testimony of Mr. Waisnor and Mr. McDonough in support of the lighting plan and waivers. Mr. Guzik requested clarification of the Applicant's plans to retrofit the lighting given that the buildings were being constructed on spec and there may be little incentive for tenants, once the lighting is installed, to reduce or alter the lighting. In response, Mr. Porcek testified that lighting is installed based on security and safety and then depending on a particular tenant's operations, but until the tenant is identified and its operations known, it was hard to know what those needs are. Mr. Porcek testified that the lighting to be installed will be a type of down light that is anti-glare, so it is very sensitive with respect to spillover. Mr. Guzik indicated that he was comfortable with that testimony.

*Dan Dobromilsky, L.L.A, Township Landscape Architect*

103. The following testimony by Mr. Dobromilsky, duly sworn, is summarized:

104. Mr. Dobromilsky noted that over 200 acres of land on Site is not being developed and will be conserved and become part of the Township's Greenbelt.

105. With respect to air quality, Mr. Dobromilsky explained that the Applicant had provided supplementary data and analysis prepared by Dynamic Engineering that concluded that the existing prevailing winds would be dissipated before they reached other properties, and air pollution would be further mitigated by the extensive plantings and preservation of existing trees, a conclusion Mr. Dobromilsky found satisfactory. He noted that air emissions data are not specifically required to be provided and it is typical for a more general analysis to be provided in land use applications, which had been provided here. In requesting more specific information in this respect, Mr. Dobromilsky testified that the idea was for the Applicant to be able to show that the preservation of existing trees and planting of new trees would provide some carbon sequestration and air oxygen production to offset the impacts of the trucks and vehicles on the Site. But it is not possible to provide more localized detail without a "significant study," which is not required to be submitted. In this context, Mr. DeGrazia commented that the Applicant complied fully with the applicable clean air standards and emissions standards for vehicles.

Asked by a Board member whether air quality is actually monitored, Mr. Dobromilsky explained that the Township does not, the DEP does but on a more regional basis.

106. With respect to landscaping, Mr. Dobromilsky indicated that the Applicant provided a landscape plan in accordance with code requirements and the Township's recommendations during the technical review process. He stated that he supports the waiver requested with respect to the design of the storm water basins based on the level of planting that is proposed in the basins in that it meets the general intent of the code, if not the letter of the law. Mr. Dobromilsky requested more clarity regarding the Applicant's intentions with respect to the waiver from the requirement for trees to be planted within 75 feet of the building and must be 4-inch in caliper. Mr. Waisnor testified that because of the way the buildings operate, there is not much good planting area immediately adjacent to the buildings within the required 75 feet, so the Applicant, working with staff, proposed 362 trees within 100 feet of the building and that 362 trees would be planted, which will be upsized to be 4-inch caliper to meet the intent of the ordinance to have larger trees closer to the building. Mr. Dobromilsky indicated that he found this to be a reasonable compromise taking into consideration the building type being proposed and the overall site design.

107. Mr. Dobromilsky commented on the uniformity of color of the buildings, and asked whether there could be more variation in this aspect of the design. Mr. Porcek testified that the Applicant could not agree because the uniformity is by design, part of the brand.

108. In response to a request by Mr. Dobromilsky to clarify whether the berms along Clarksville Road would be constructed during Phase I or Phase II of the development, the Applicant clarified that it would be Phase I.

109. Mr. Dobromilsky requested a schedule to be provided to staff with respect to the removal of demolition material on Site, which the Applicant agreed to do as a condition of approval.

110. Finally, Mr. Dobromilsky requested clarification of the type of warehouse actually being proposed – fulfillment center, high cube transload, high cube warehouse – and raised the question of whether there should be a condition specifying, for the benefit of future zoning officers, which type it is. In reply, Mr. Pehnke testified that these terms are interchangeable, and for purposes of the traffic analysis, a “higher level” of traffic data documented for warehouses was used. Mr. Pehnke reminded the Board that the buildings were being designed on spec to be



“highly mechanized,” which means low levels of parking and unlikely to attract high levels of employment with correspondingly high parking needs. “So it’s really the parking that is going to control the types of tenants that come into the Site.” Mr. Pehnke explained that the term “fulfillment center” does not necessarily correlate to a certain type of employment. Cold storage, for example, is not envisioned, nor is any kind of assembly or production of any type.

*Christopher Jepson, P.E., Van Cleef Engineering, Township Environmental Consultant*

111. The following testimony by Mr. Jepson, duly sworn, is summarized:

112. Mr. Jepson commented on the scale of the project, noting that it is the largest storm water management system in West Windsor, with over five million square feet of impervious surface. However, concern with respect to total suspended solids is lessened because the project will have groundwater recharged, as opposed to surface water discharge.

113. Mr. Jepson testified that he did not believe the development would negatively impact any endangered species, or majorly impact wildlife or the natural habitat.

*Jeffrey L’Amoreaux, P.E., Arora and Associates, P.C., Township Traffic Consultant*

114. The following testimony by Mr. L’Amoreaux, duly sworn, is summarized:

115. With respect to updating traffic counts, Mr. L’Amoreaux recommended that traffic count updates be done at the conclusion of each phase of development and then annually for three years after that, to establish the cumulative effect of the full warehouse buildout. The Applicant agreed to this as a condition of approval.

116. Mr. L’Amoreaux confirmed his understanding that most or all of the roadway construction, i.e. improvements required to accommodate both Phase I and Phase II, would be done commensurate with the conclusion of Phase I. Mr. Pehnke noted that there could be some minor future improvement associated with future development that may be phased beyond Phase I but most of the improvements would be done upfront with Phase I.

117. With respect to the evaluation of a roundabout at Clarksville Road and Meadow Road, Mr. L’Amoreaux asked the Applicant to provide NJDOT hourly traffic volume projections at that intersection, to which the Applicant agreed.

118. Mr. L'Amoreaux recommended that Quakerbridge Road across the frontage at the intersection with Lawrence Station Road be constructed and engineered so that there can eventually be a connection to Lawrence Station Road, which the Applicant agreed to. In this context, Mr. Penhke indicated that the Applicant would be working with the County to re-coordinate the signals along Quakerbridge Road as part of the development, with the aim of reducing queue length and to keep the left turn movement going, information contained in the Applicant's traffic study.

**FINDINGS AND CONCLUSIONS RE: PRELIMINARY AND FINAL MAJOR SITE PLAN APPROVAL AND SUBDIVISION APPROVAL (PHASE I) AND PRELIMINARY MAJOR SITE PLAN APPROVAL (PHASE II)**

119. It is not often that a board considers an application for land use development of the scale and involving the complexity of issues presented here. The sheer size of the project, five-and-a-half million square feet of warehouse space that will cover a substantial portion of a 650-acre site, has profound local and regional implications that the Board had to consider, along with real and legitimate concerns expressed by local residents opposing the project, and many of whom attended the hearing and voiced those concerns publicly. Over the course of five long meetings, the Board heard extensive testimony from the Applicant and its expert witnesses and the Township's own staff, as well as from the public, to whom one entire meeting was devoted and all of whose comments expressed at that meeting are summarized in this resolution. In addition, many communications, reports, comments and questions from members of the public were received that became part of the public record, up to the point when the Board determined to close the public comment period after the June 1 meeting, as was publicly announced in advance that it would be. As the Board Attorney later indicated, although comments and questions continued to be communicated and received after the June 1 meeting, these could not be made part of the record for the same reason that public comments could no longer be heard after the June 1 meeting. In approving this application by a vote of 6 to 2, with two Board members voting no, the Board has endeavored to address most of the concerns and issues raised by the residents, as most were shared in some way by the Board members as well as staff, as set forth in more detail below.

120. For the reasons set forth below, and on the basis of the testimony and submissions provided by the Applicant and municipal staff, the Board finds that the merits of this application justify approval and outweigh the concerns, which are mitigated by the conditions of this approval.

*Background – Settlement Agreement and Rezoning*

121. The Settlement Agreement and rezoning contemplated by it (summarized in paragraph 3 and in testimony provided by Mr. Novak) could, but was not required to, be done. It was done and preceded the Planning Board's review of this application. It bears mention because although the terms of the Agreement do not govern the Board's review or bind it, a conceptual site plan of the warehouse development broadly consistent with the plan in this application formed the basis of that Agreement and the rezoning of the Site (and as recommended by the 2020 Land Use Element), to permit warehousing and distribution centers on the Site. This background informs the Board's consideration of the intent and purposes of the PCD as it applies to this application because, while the Board reviews this application on its merits against the ordinance requirements, as it must all applications, it is also clear that the PCD was created to effectuate this project. The settlement reflects the governing body's view that this project represents a better alternative to the high-density multi-unit residential development that Atlantic's predecessor had proposed, a plan that would have impacted the neighborhood in far more reaching and potentially negative ways as a result of increased density, traffic and stress on municipal infrastructure.

122. This background also informs the Board's understanding of the importance and function of the Master Plan Road as presented in the present site plan before the Board. Board members and the Applicant disagreed not only over the timing of the construction of the Master Plan Road, but over whether the road was needed at all for proper and efficient site circulation. As further discussed below and addressed by several conditions of this approval, the Board finds that the Master Plan Road is a critical aspect of site circulation that needs to be fully constructed before occupancy of any of the warehouses with guaranteed access to U.S. Route 1 such that DOT approval must be obtained prior to any warehouse construction.

*Zoning Considerations*

123. The Planned Commercial District, consisting of the entirety of the Site, was created to permit "warehousing and distribution facilities," among a variety of other non-residential uses. In supporting such uses, the intent is also to ensure that a permitted development "will be complementary to the surrounding area, protect existing environmental constraints, minimize undue strain on the Township's community facilities, and avoid any substantial adverse impacts to the existing traffic and circulation patterns of Clarksville Road, Quakerbridge Road and the U.S. Route 1 corridor." Section 200-207.3A. Retail, service commercial, entertainment and

hospitality uses are to be located along Quakerbridge Road and U.S. Route 1, whereas “[w]arehouse and distribution uses *are encouraged within the remainder of the district*” (emphasis added). *Id.*

124. While several members of the public questioned why other permitted uses were not considered for the Site (or whether they were considered at all), a question that the Board’s narrowly prescribed statutory powers and more limited jurisdiction would not have permitted it to address in any case, the Board finds that the proposed project is well within the scope of intended uses in the PCD, particularly given that warehouses “are encouraged” on the Site. It is “complementary to the surrounding area” in that it forms part of the commercial U.S. Route 1 corridor and is generally consistent with the character of surrounding commercial, retail and industrial land uses, while none of the warehouse buildings are immediately adjacent to any residential properties and will be substantially buffered from neighboring properties through proposed landscaping, setbacks and natural buffers. It will preserve and “protect existing environmental constraints” in that almost a third of the Site, the northerly portion consisting of the Township Greenbelt and environmentally sensitive areas, will remain undisturbed by the development, and no threatened or endangered species were determined to be present on the site. It will “minimize undue strain on the Township’s community facilities” as it does not generate significant demand, if any, for additional infrastructure such as schools, public transportation or emergency services. Finally, for the more qualified reasons set forth below, the Board finds that the proposed development, subject to the conditions of this approval, particularly with respect to the construction of the U.S. Route 1 access and restricted truck turns onto Clarksville Road, will avoid “substantial adverse impacts to the existing traffic and circulation patterns of Clarksville Road, Quakerbridge Road and the U.S. Route 1 corridor.”

125. The proposed development meets the bulk standards and most of the area regulations, with only waiver relief being requested, most of which seek modest exceptions from the ordinance, as addressed in the Waiver section below. Importantly, the plan is fully conforming with the zoning ordinance, no variances being required.

#### *Master Plan Considerations*

126. Land Use Element. The 2020 Land Use Plan Element recommended the establishment of the PCD consisting of the Site. The Township Council subsequently created the PCD in accordance with this recommendation, incorporating substantially the same criteria, intent and purposes for the District as set forth in the Land Use Plan, as detailed above. Importantly, the



Land Use Element establishes the Master Plan Road as a public roadway extending from Quakerbridge Road at its intersection with Avalon Way to U.S. Route 1 at its intersection with Nassau Park Boulevard. It also encourages the incorporation of a bicycle and pedestrian path linking Mercer County Park to the south and the D&R Canal to the north. The Board finds that the proposed project meets the Master Plan goals.

127. Circulation Plan Element. The 2021 Circulation Plan Element similarly recommends the concept of the Master Plan Road, adding that the roadway “should be designed with consideration for the Township’s future Bus Rapid Transit (BRT) routes” and for bicycle and pedestrian safety. That plan also supports construction of a multi-use path extending from Clarksville Road through the Site and through the adjoining Garden Homes (Duck Pond, now known as Meridian Walk) development and Carnegie Center Office Complex. Mr. Penhke testified that elements of the County mobility plan, such as the shared use paths for pedestrians and bicycles along the project frontages on Clarksville Road and Quakerbridge Road, were incorporated into the Site design, as shown on Exhibit A-4. The Applicant also agreed, as a condition of approval, to construct the trail connection towards Bear Brook Road in accordance with the Circulation Plan Element, and that it will work with NJ Transit to pursue bus routes adjacent to or within the development. With respect to the potential for bus stops, Mr. Pehnke explained that the determination to install transit stops is usually made after a development is built, based on need, but that the Applicant was in talks with NJ Transit to determine whether bus stops would be installed. The Board finds that the proposed project meets the goals of the Circulation Plan Element.

### *Traffic*

128. Perhaps the greatest concern with this application for the Board and also the public was the projected increase of truck traffic that will result from the warehouse development, especially along Clarksville Road through West Windsor Township. Described by one local resident as the “heart of West Windsor,” Clarksville Road extends from the Site all the way through town, populated on either side by residential properties and other community uses, including two large schools, Maurice Hawk Elementary School and High School South. A certain amount of Site traffic will use Clarksville Road. The Board gave considerable thought to ways in which the impact of truck traffic generated by the project could be mitigated. In approving this application and granting the waiver relief, the Board imposed several conditions that materially do so. In particular, (i) trucks (though not passenger vehicles) will be prohibited, through signage and geometry changes at the intersection of Clarksville Road and the Master Plan Road and the

prohibition of curb cuts (except for at least one emergency vehicle access point) along the rest of Clarksville Road, from turning eastbound out of the Site at that intersection, in the direction of Town<sup>3</sup>; and (ii) no warehouses may be constructed until both the U.S. Route 1 access for the Master Plan Road and the Avalon Road/Quakerbridge Road signalized intersection are approved, while no certificates of occupancy may be issued until both of those improvements are fully constructed and operational in accordance with approved plans. The prohibition of eastbound truck turns increases the need for alternative ways out of the Site, such as via the Master Plan Road. These two sets of conditions are therefore closely intertwined. Their importance in justifying the Board's approval of this application cannot be overstated and the Board makes the following findings with respect to them:

129. *Traffic Study*. Mr. Pehnke, a licensed professional engineer with 35 years of experience in the field, who testified that he was "very familiar with the Site" from having worked with its different owners for "probably over 17 years" as well as from his own commute, provided extensive testimony on the expected traffic impact of the project and the methodology behind the Traffic Impact Study, dated November 12, 2021, revised April 7, 2022. He explained how a significant amount of data, covering several years from 2005 onwards, and based on multiple traffic engineering sources, including nearby traffic hubs such as Costco and the Quakerbridge Mall development, was used to prepare the study and project traffic flows. This was done with reference to the Trip Generation Manual, the authoritative national database published by the Institute of Transportation Engineers and used by traffic engineers nation-wide to project traffic patterns for new developments. The data and projections are then plugged into a model to evaluate the operation of the Site and project traffic flows on the surrounding roadways. This, he explained, was done on the basis of a full buildout of both Phase 1 and Phase 2 of the project. Mr. Pehnke testified that he employed a conservative approach by using ITE data for land use code 150 (warehousing), a higher-level use than what is proposed, to ensure that the road system will work and can accommodate some variation in employment levels at the warehouses. The methodology and input sources are described in extensive detail in the Traffic Impact Study.

130. With reference to Exhibit A-13, the Peak Hour Truck/Auto Distribution, Mr. Pehnke presented the projected number of truck and automobile trips per peak hour, generally 7:30-8:30AM for the morning and 4:30-5:30PM in the evening, from various points in and out of the Site, including Clarksville Road. Taking just truck counts, for example, Mr. Pehnke testified that a projected 11 trucks per hour during the morning peak would travel westbound down

<sup>3</sup> Trucks exiting Buildings C1 and E1 onto Clarksville Road just west of the Master Plan Road will be able to turn eastbound for the short distance from those buildings to the Master Plan Road.



Clarksville Road into the Site, whereas 17 trucks per hour were projected in the same direction during the evening peak hour, with more-or-less identical numbers projected for the outbound (eastbound) trips during the evening peak hour (see Exhibit A-13). As discussed further below, this suggests that the condition prohibiting eastbound truck turns onto Clarksville Road from the Site would roughly halve the amount of truck traffic on Clarksville Road. While the projections represent the peak numbers that could be expected during any given hour, Mr. Pehnke explained that the variable nature of the expected warehouse operations, reflecting different tenants' different operations and work shifts, made it difficult to provide "hour by hour" projections for this kind of site. However, he testified that this variable aspect of operations is actually an "extreme advantage," as it will likely cause traffic to be spread out more throughout the day. He concluded that the estimated distributions are "reasonably indicative" of what can be expected for this project, and if anything, are "on the high side." Based on Mr. Pehnke's testimony, as further substantiated by the very thorough Traffic Impact Study, the Board finds that the traffic estimates are robust and establish a reliable basis on which the Board could consider the overall impact of this application and impose conditions accordingly.

131. Clarksville Road. Clarksville Road is a County Road, which means the County has jurisdiction over it and generally determines its traffic characteristics. It is also a "600 series county route," as Mr. Pehnke explained, which means that it is a permitted truck access route and although there is currently an 18-ton restriction on the road, that restriction is expected to be lifted upon the reconstruction by DOT of the bridge over Amtrak. Until the restriction is lifted, trucks over 18 tons cannot travel on Clarksville Road.

132. The Board has jurisdiction over the site plan and its access points, and its power to impose conditions of approval is incident to its broad quasi-judicial powers. Valid conditions of approval are those that (1) do not offend against any provision of the zoning ordinance; (2) do not require illegal conduct on the part of the permittee; (3) are in the public interest; (4) are reasonably calculated to achieve some legitimate objective of the zoning ordinance; and (5) are not unnecessarily burdensome to the landowner. *Orloski v. Planning Bd. of Borough of Ship Bottom*, 226 N.J. Super. 666, 672 (Law Div. 1988), aff'd o.b. 234 N.J. Super. 1 (App.Div.1989). The condition restricting eastbound turns onto Clarksville Road clearly meets these requirements: (1) It does not offend any provision of the zoning ordinance nor (2) require illegal conduct; (3) it is overwhelmingly in the public's interest, health and safety, as it will significantly reduce the amount of truck traffic going through the Township's densely populated, already heavily-travelled main thoroughfare; (4) it is reasonably calculated to achieve the legitimate objective of the zoning ordinance in that it will significantly reduce "adverse impacts

to the existing traffic and circulation patterns” and makes the project possible as, without the condition, the Board would not likely have approved the application; and (5) is not unnecessarily burdensome to the landowner as there are several other ways for trucks to leave the Site, especially with the construction of the Master Plan Road, which will provide direct access to U.S. Route 1 and Quakerbridge Road.

133. With respect to (5), requiring the condition to not unnecessarily burden the landowner, the Board was not persuaded by Mr. Penhke’s testimony that restricting truck movement eastbound on Clarksville would lead to dangerous “unintended consequences” of trucks travelling in a way that was not in the proposed design, or that there is “really no safe way to try to start physically prohibiting trucks from turns” because trucks will “start to do maneuvers that are unsafe and you’ll have trucks that end up overturning and or running over the curb.” The fact that the Applicant itself proposed prohibiting left turns out of the warehouse driveways onto Clarksville Road strongly suggests that certain turns by trucks can be safely prohibited and trucks can be safely directed to other exits even without geometric restrictions (which the Applicant did not propose in that particular context). The trucks are not being required to do anything illegal or impossible, merely refrain from turning eastbound on Clarksville Road, as will be clearly communicated to drivers through signage and geometry changes designed to prevent any dangerous or unintended consequences. They will have several other ways to leave the Site via the Master Plan Road or Quakerbridge Road to points north-south and east-west. As shown in Table 5 of the Traffic Impact Study summarizing arrival and departure trip distributions, 70% of all truck traffic going north and south to and from the Site is projected to use U.S. Route 1, with 20% of that going north. The projected 20% of north-bound traffic that uses Clarksville Road would have to reroute, but in this respect, the Master Plan Road benefits site-specific traffic by allowing trucks to access the regional transportation routes without going through West Windsor Township, thereby avoiding the congestion and heightened safety concerns of driving through the Town on a shared commuter route past schools and residences. The Township Engineer and Traffic Consultant did not object to the condition restricting eastbound truck access onto Clarksville Road or echo the concerns of Mr. Penhke with respect to safety issues arising from the restriction.

134. While some inconvenience may be felt as a result of the eastbound truck turn restriction on Clarksville Road, there is no law requiring trucks to take the fastest route, and the Board concludes that the Applicant and its warehouse tenants will not be “unnecessarily” burdened thereby. The benefits to the community, on the other hand, are substantial. The interests of public



safety and wellbeing justify imposing the condition and far outweigh any inconvenience that may be felt by truckers and other stakeholders.

135. County versus Township Jurisdiction. It is anticipated that the County will have to agree to the Clarksville Road eastbound truck turn restriction as part of its approval process for this application (which approval is itself also a condition herein), and a further condition of this approval requires the Applicant to work together with the Township to obtain that approval specifically with respect to the restriction of turns eastbound by trucks onto Clarksville Road. Without the County's approval, the Applicant could not proceed with the project as approved by the Board. Without speculating as to what may happen in such eventuality, the restriction on eastbound truck turns onto Clarksville Road remains non-negotiable for this Board.

136. The Board's jurisdiction does not extend to restricting truck traffic in-bound into the Site from the other end of town, at the intersection of Clarksville Road and Route 571 (Princeton-Hightstown Road). The imposition of any such restriction must be left to the County and Township Council. However, in the spirit of cooperation and consideration for the residents of West Windsor, the Applicant agreed to work with the Township to apply for no turns by trucks onto Clarksville Road at that intersection (see condition p).

137. For the foregoing reasons, the Board finds that the condition prohibiting eastbound truck turns onto Clarksville Road is reasonable and will substantially reduce the impact to West Windsor residents of truck traffic generated by the Site.

138. The Master Plan Road and U.S. Route 1 Access. The Master Plan Road transverses the Site north-south (to become Coleman Drive), with an east-west (to become Doherty Drive) extension to Quakerbridge Road, providing driveway connections for each of the warehouse buildings except A1 in the far east corner of the Site, which will be connected to Doherty Drive via its own access road, and therefore actually depends upon it for access to Quakerbridge Road. Most importantly, it provides direct access to and from the Site to U.S. Route 1 and Quakerbridge Road, two of the three busiest roadways facilitating traffic to and from the Site, Clarksville Road being the other. It was envisioned by the Master Plan and the concept plan in the Settlement Agreement, and was incorporated as envisioned into the site plans and traffic study that informed the municipal staff's review of the application. In short, it is a critical element of the site plan that has been envisioned from the earliest conception of the project and materially informed the understanding of Township staff and consultants in their technical review of the application, as well as of the Board in its own review. The condition prohibiting

eastbound truck turns on Clarksville Road increases the need for the Master Plan Road even more.

139. The Applicant requested permission to start vertical development of the Phase I warehouses without first obtaining the DOT access permit required to connect the Master Plan Road to U.S. Route 1 due to the anticipated traffic counts and lengthy timing of the DOT U.S. Route 1 access permit review process. In doing so, it took the position that, as Mr. Pehnke testified, the Clarksville Road and Quakerbridge Road interchange “can handle the full buildout of Phase I and Phase II without the [Master Plan Road’s direct] connection to U.S. Route 1.” Mr. Pehnke asserted that this is because the percentage of overall traffic actually using the Master Plan Road’s direct connection to/from U.S. Route 1 “does not represent a large impact” and, that, without that direct connection, trucks would use the Clarksville Road and Quakerbridge Road interchange “until such time as we get the connection completed.” The Board was not convinced and remained concerned about the traffic impacts to Clarksville Road if the Master Plan Road connection to U.S. Route 1 is delayed, or even denied. Notwithstanding the significant degree of this Board’s reliance upon Mr. Pehnke’s extensive professional expertise, experience and credibility, and on most of the testimony he so cogently provided in support of this application, the Board did not accept his conclusion as to the timing of the Master Plan Road connection to U.S. Route 1 and rejected the Applicant’s request to link the DOT access permit to Phase II of the development.

140. The Board is not insensitive to the Applicant’s concerns with respect to the timing of the DOT access permit. According to Mr. Pehnke, the approval process can take anywhere from a year to three years. Faced with that kind of timeline, any applicant would understandably want to proceed with warehouse construction while waiting for the DOT to approve the U.S. Route 1 access permit, as the Applicant requested here. As Mr. Pehnke testified, referring to the DOT, “[t]he problem is the development timing. It takes time to get permits, particularly for some agencies....So all we’re requesting is the recognition and the ability to move forward with construction while we pursue those permits....” This, he explained, would avoid the Applicant being held up from starting any buildings “subject to an agency that has no time clock.” But arguing that the Master Plan Road connection to U.S. Route 1 is not needed did not convince the Board that warehouse construction should be allowed to proceed before the Applicant has obtained DOT access approval to/from U.S. Route 1. On the contrary, the Board finds that the Master Plan Road is an essential component of the site plan and would impose the same conditions of approval even if the Applicant agreed that it is indispensable for the full buildout. Moreover, from several exchanges between Board members, the Applicant’s witnesses and

Board professionals, it became clear that the exclusion of the U.S. Route 1 intersection was not previously discussed with the Board's professionals, nor raised at any of the Technical Review Committee meetings before the hearing.

141. The risks of proceeding with warehouse construction without the DOT access permit in place are not merely the Applicant's. If warehouse construction were permitted to proceed, and then the permit is denied, a perhaps low but still real possibility, this would not be the project the Board approved and the Applicant could obviously not proceed with it as proposed. The consequences of that awkward scenario need not be imagined here. But for all the foregoing reasons, the Board finds it reasonable and prudent to require that no warehouse construction begin unless and only until the DOT U.S. Route 1 access permit is approved.

142. *Automobile traffic.* The majority of projected trip generation to and from the Site will be by passenger cars. Table 4 of the Traffic study shows the total AM peak hour trip generation estimate to be 835 cars, and exactly the same number for PM peak hour trips. To provide some perspective on these numbers, Mr. Pehnke offered comparisons of the proposed automobile parking spaces with the parking spaces of nearby commercial centers Quakerbridge Mall, Mercer Mall and Nassau Park, the *combination* of which sites he conjectured is smaller than the warehouse Site. Whereas 2,200 parking spaces are proposed with this application, Nassau Park has 4,900 parking spaces; Quakerbridge Mall has 5,545,<sup>4</sup> and Mercer Mall has 2,300. Nearby Costco has 750. Whereas projected daily trips entering and existing the Site are 4,000-4,100 (including trucks), by comparison, Nassau Park generates around 19,000 vehicles entering and exiting per day; Quakerbridge Mall is about 17,000 trips, Mercer Mall is 10,000 trips per day and Costco, on a far smaller site, is roughly on par with the project at 4,000 trips per day. While these numbers do not break out the numbers of trucks versus cars, and also compare retail facilities with a warehouse facility, they do help to see that the proposed facility is not expected to generate nearly as much traffic as those nearby commercial centers, even though it covers a much larger geographic area. Table 5 (Phase 2 Arrival and Departure Trip Distributions) of the Traffic Study also helps to show that, unlike the truck distributions to and from the Site, the passenger vehicle distributions are more dispersed among the network of adjacent roadways, with the majority (30%) projected to go southward on U.S. Route 1. As Mr. Penhke testified, the traffic volumes to and from the Site "dissipates to the road system relatively quickly, which starts to minimize and reduce the point load of traffic impacts of this project."

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<sup>4</sup> As corrected by Lynda Benedetto, the General Manager of the Quakerbridge Mall, in her public comments at the June 1, 2022 meeting.

143. Based on Mr. Pehnke's testimony and rigorously prepared Traffic Study, the Board finds that the passenger vehicle estimates are reasonable and will not have an overall adverse impact on the surrounding areas.

#### *Environmental and Air Quality*

144. Approximately 200 acres of land on the Site is not being developed. Over 20,000 new trees are proposed to be planted as part of landscaping throughout the Site and a large-scale reforestation of existing fields on the south side of Clarksville Road, while approximately 2,000 existing mature trees over 5" in caliper are to remain on-site. The Township's Environmental Consultant, Mr. Jepson, testified that he saw no major impacts on wildlife from the proposed development, as much of the Site was developed and used for industrial activity before, and there is not much woodland left as a result. No endangered species were established to be present on Site.

145. The Applicant's Environmental Impact Statement (EIS), prepared by Langan Engineering and Environmental Services, indicates that environmentally sensitive surface waters identified at the Site include the Duck Pond Run unnamed tributary and the Shipetauken Creek along the eastern lot line. It concludes that environmentally sensitive areas do not significantly overlap the improvement area and the project does not result in an adverse impact on environmentally sensitive areas of the project site. Mr. Waisnor testified that the extent of wetlands was confirmed by a DEP LOI in connection with which an application was filed prior to the current LOI expiring in March 2022.

146. In its Air Quality Statement dated May 25, 2022, by Daniel T. Schnal, P.E. and Brett W. Skapinetz, P.E. (Dynamic Engineering Consultants, P.C.), the Applicant provided data estimating the amount of oxygen that could be produced by the 22,000 mature trees ultimately anticipated on the Site and showing that they will be capable of mitigating the negative air quality effects of "1,856 trucks traversing the site each day." It concludes that the development is expected to provide 177% of the number of mature trees required to offset potential detrimental air quality effects provided by the maximum expected daily truck trips. It further concludes that concentrations of air pollutants dilute rapidly when traveling along open routes, such as fields and wooded areas, as opposed to closed routes, and that with prevailing winds originating from the west, "air pollutants generated on-site will travel eastward or over open/landscaped and wooded terrain, allowing for ample particle dispersion and return to background concentration levels in the vicinity of the residential uses without negative impact."

The report concludes that “the anticipated air quality benefit of the proposed development outweighs the air quality detriments produced by on-site truck emissions.”

147. Mr. Dobromilsky, the Township Landscape Architect, testified that he found these conclusions satisfactory. It is noted, as Mr. Dobromilsky pointed out, that air emission data is not specifically required in land use applications. A more intensive study would be needed to provide more localized details of air emissions, which are difficult to measure accurately. The supplemental data provided in the Air Quality Statement was intended to provide a good indication that the proposed new plantings and preservation of existing trees will provide enough “carbon sequestration” and air oxygen production to offset the air pollution from trucks and vehicles on the Site. The Applicant agreed, as a condition of approval, to provide further air quality studies just after construction and post-occupancy, including measures of particulate matter and solids. Based on the Applicant’s report and the testimony provided, and subject to this and other conditions of approval, the Board finds that the proposed development will not unduly negatively impact the environment or air quality.

#### *Storm Water Management*

148. A robust storm water management plan was presented with testimony that runoff from the property will be mitigated and treated by new on-site stormwater management basins to meet peak rate reduction requirements and provide a minimum of 80 percent total suspended solids removal, with many areas achieving 95% removal from the water quality storm before entering the nearest stream off property. The plan consists of 104 storm water features, including 82 small scale bio-retention basins, 64 of which recharge directly into the ground while 18 have under drains. As Mr. Waisnor testified, three large scale infiltration surface basins are proposed, whose locations were determined by the existing conditions and storm water flow. There will be two constructed wetlands and two large scale subsurface basins.

149. At 44% impervious coverage, the Site is well below the maximum permitted 70%. Approximately 11.5 acres of permeable pavement is proposed, a significant portion of which will be for truck trailer parking. Permeable pavement means concrete that allows water to recharge into the ground or by filtering through an under-drain. Mr. Waisnor testified that the storm water management system “significantly exceeds” the DEP and Township’s recharge quality and quantity requirements, and will remove up to 100% of total suspended solids from the water quality storm from what goes to the Delaware and Raritan Canal through the construction of

oversized basins that will soak up the water rather than discharge it off site. In terms of quality, the standard reductions required for the 2, 10, and 100-year storms will be exceeded.

150. A condition of approval requires the Applicant to address deficiencies in its Storm Water BMP (Best Management Practices) Plan. Mr. Guzik explained that the deficiencies referred to items that the DEP requires in the maintenance plan that are typically provided after site plans are finalized, but do not mean that elements of the plan themselves are deficient. Mr. Guzik found the Applicant's storm water management plan to be in full compliance with the Township's storm water control ordinance. Based on the foregoing, the Board finds the proposed storm water management plan to be acceptable.

#### *Noise*

151. The Applicant's noise consultant, Benjamin Mueller, P.E., testified that no noise mitigation measures would be needed in connection with Phase I of the project as the three buildings in this phase are in the middle of the property and not close to any off-site receptors, so "virtually nothing changes" as a result of the development's Phase I with respect to noise impact on any neighboring properties.

152. With respect to Phase II, for which only preliminary approval is sought here, the main area of concern is Building A1 in the south eastern corner of the Site, which, at the closest point, is about 300 feet from the nearest residence to the east, the Princeton Terrace Apartment Buildings. To the south of Building A1 across the railroad lie the Windsor Ponds Condominiums, about 800 feet away. The main sound emissions include coupling, when trailers connect and disconnect their brakes, backup alarms, truck driving and HVAC. Mr. Mueller testified that sound levels at the property line of Building A1 are estimated to be in the high 50 dBs. The daytime (7AM-10PM) noise limit is 65 dBs; the nighttime (10PM-7AM) limit is 50 dBs. The Applicant proposes to install a 470-foot long, 20-foot-high sound wall around the trailer parking area of Building A1 300 feet from the nearest residences. A 530-foot long, 15-foot-high sound wall is to be installed along the south-facing property line 800 feet from the nearest residences on that side. With the walls installed, the sound emissions from the truck activity in the truck court and dock area of Building A1 is expected to fall below 50 dBs, well in compliance with both daytime and nighttime limits. The walls will not be visible to any of the neighboring developments, and will be sufficiently dense to block sound from going through it.

153. The Board is satisfied that the proposed measures will adequately mitigate sound emissions from the property with respect to the closest neighbors in the area surrounding Building A1, but several conditions of approval are imposed to go further to ensure that the project will comply with noise regulations. The Applicant agreed to allow for a post-construction sound study (see condition mm). The Board will therefore have another chance, at the stage of final approval for Phase II, to review the Applicant's sound mitigation plan. Also, the Township will have the ability to test noise levels at any time, without notice, upon completion of any Phase I and II building or improvement, and if tests indicate that state or local noise limits are violated, the Applicant will have to take corrective measures. For now, based on the foregoing, the Board is satisfied with the testimony provided that the project will not have an adverse impact in terms of sound emissions.

#### *Utilities*

154. The proposed project meets the Master Plan Utility Element goal in that a 20-foot-wide easement is being provided along the extension of the sewer line along the north edge of the property, as well as a stable access way to the remote and environmentally sensitive portion of the Duck Pond Run Sewer Interceptor. Based on the conditions addressing this and other aspects of the proposed utility plan, the testimony provided by the Applicant's witnesses and Mr. Guzik, the Board finds the proposed utility plan acceptable.

#### *Lighting*

155. The closest residential neighbors to the property are 300 feet away on the south easterly corner, near Building A1, which is part of Phase II. The lighting plan with respect to Phase II will be provided with submissions for its final approval. The greatest light intensity for Phase I is along the Master Plan Road, which is surrounded on both sides by warehouses, while the perimeter lighting is zero. Thus, no residential properties are impacted by the proposed lighting for Phase I. The Board finds the lighting plan to be acceptable.

#### *Public Testimony*

156. The impassioned voices and legitimate concerns of residents and other stake holders opposing this project were deeply felt and heard throughout the process of this application. Many expressed concern over the impact of truck traffic, especially along Clarksville Road and in the vicinity of the schools, Maurice Hawk Elementary and High School South. Concerns for the

safety of school children and pedestrians ran through many of the public comments and input. Concerns over the environmental impact of the project were also writ large, with several questioning why no air emissions studies were done (the Applicant did provide one dated May 25, 2022), or questioning the impact of the project on storm water management. Several questioned the planning and settlement process that preceded the Board's consideration of this application, expressing concern about a perceived lack of transparency. There were comments about the potential negative economic impact of the project on property values and on the character of West Windsor which many residents felt would be compromised by the project. Finally, several noted the issuance by the State Planning Commission, on June 10, 2022 of draft Warehouse Siting Guidance and asked the Board to consider the application in light of the recommendations, with a request by counsel retained by one interested individual that the Board reschedule its vote on account of the draft Guidelines.

157. The Board members too live in West Windsor and share these concerns. In approving this application, the Board has endeavored to address and mitigate the concerns as far as possible through the conditions imposed, especially the one prohibiting eastbound truck turns onto Clarksville Road. That condition will substantially reduce the amount of truck traffic through West Windsor, while the condition requiring the Master Plan Road-U.S. Route 1 access permit to be approved before warehouse construction can begin and the Master Plan Road to be fully constructed and operational prior to any warehouse certificates of occupancy will ensure that Site-specific traffic can optimize use of the Master Plan Road for ingress and egress from the regional roadways. The condition prohibiting curb cuts on Clarksville Road except at its intersection with the Master Plan Road (and for at least one emergency vehicle access point) will further ensure that trucks cannot violate the prohibition against eastbound turns. The condition requiring the Applicant to provide traffic reports, including traffic counts for the full length of Clarksville Road, for three consecutive years after full occupancy will help ensure that the representations and traffic report upon which the Board relied to approve this application remain valid and accurate, or provide a basis for modifications to be considered if necessary. In a similar vein, the Applicant agreed, as part of the final site plan submissions for Phase II, to work with the Township Engineer and Traffic Consultant to review ways in which truck traffic may be further limited on Clarksville Road.

158. With respect to the environment and air quality considerations, the Applicant agreed to provide air quality studies both after construction (to provide a base line) and post occupancy, which are to include measures of particulate matter/solids. All roof areas other than those on which equipment will be located are to be made solar-ready. Anti-idling signage must be



provided on the Site and will be enforceable by the Township. These are just some of the many conditions imposed to justify approving this application and the waiver relief. Prior to the Board's deliberation of the application, which occurred on June 29, 2022, a list of all of the Board's proposed conditions and the Applicant's requested waiver relief were publicly posted on the West Windsor website, together with the Applicant's comments on the conditions. The Board then discussed every single condition and waiver with reference to these documents. Additional conditions were added at the June 29, 2022 meeting.

159. *No Conflicting Testimony.* It is noted that while many people voiced opposition to the project and attended the hearing, and one interested party retained counsel who, in a letter dated June 17, 2022 to the Board Attorney, raised objections on the basis of the issuance of the draft Warehouse Siting Guidance from the State Planning Commission, no member of the public actually appeared through counsel at the hearing to formally object or present any opposing witnesses. This is unfortunate from the perspective of the potential value to the Board of being able to consider and weigh conflicting probative expert testimony, especially with an application as wide reaching as this one. But no conflicting expert testimony was presented, and while the Board draws no conclusion from this, it does obviate the procedural need to explain a board's choice of testimony in support of an approval when presented with conflicting expert views. In this case, the Board itself disagreed with aspects of the Applicant's testimony that it did not find convincing, as discussed above, and provided its reasons for that disagreement.

#### *Waiver relief*

160. The Applicant requested 14 design waivers, of which the Board approved 12, denying two sign-related requested. The Applicant also requested 12 submission checklist waivers, some of which were partial and some of which were temporary relief to be addressed through resolution compliance. The reasons for granting the waivers as well as for denying the two design waivers are provided below in the Waiver section.

#### *The Vote*

161. The Board voted 6 to 2 in favor of the application, enough to approve it, with two Board members voting no. Only Mr. Schectel provided a statement explaining his vote to deny the application, expressing concern over the sheer size of the project and its implications for the safety of school children, pedestrians, and other West Windsor residents.

*Vesting*

162. The Board finds that the application meets the MLUL threshold for granting extended vesting on the basis of the size and complexity of the development, and due to the amount of time it will likely take for the Applicant to obtain various other approvals, including potentially significant time for the DOT's U.S. Route 1 access permit, the securing of which this Board has made a precondition of any warehouse construction. If the beginning of construction has not concluded in 10 years from the date of final approval, an extension would have to be requested.

163. Findings and conclusions re: Preliminary and Final Major Subdivision Approval, Preliminary and Final Site Plan Approval (Phase I) and Preliminary Major Site Plan Approval (Phase II). The Board finds that, with the waivers granted and conditions imposed, the Applicant has met the Township's major subdivision standards, major site plan standards with respect to Phase I, and preliminary major site plan standards with respect to Phase II. Accordingly, preliminary and final major subdivision approval, preliminary and final major site plan approval for Phase I, and preliminary major site plan approval for Phase II are granted.

FINDINGS AND CONCLUSIONS RE: WAIVERS

164. The application necessitates 14 design waivers and 12 submission waivers. The waivers and Board's action on them are as follows:

*Design waivers*

*Parking and Loading –*

a. Waiver: From Section 200-28D(2)(b), requiring a waiver to exceed the required off-street parking and loading requirements, or 1,754 spaces, whereas 2,201 parking spaces (including 200 banked spaces) are proposed.

Waiver granted. The Applicant's Engineer, Mr. Waisnor, testified that the proposed number of parking spaces, 2,201, was based on the industry standard of approximately one space per 2,500 s.f. of warehouse space, a standard that Mr Pehnke testified was "very standard and typical" and very close to the projected number of spaces using ITE data, which would be 2,170. This preferred industry standard is double the ordinance standard of one space per 5,000 s.f. of

warehouse space, a standard that provides no flexibility as it is an absolute number and is, according to Mr. Pehnke, considered by the industry to be on the “lower end” of what is typically done in the industry. The Applicant is an experienced operator in the management of warehouse facilities. The number of proposed spaces, Mr. Pehnke explained, is designed to provide flexibility for the various types of tenant that could be expected at the site, which is not known at this time. He testified that this would provide for greater safety on site, which will be used both by trucks and passenger automobiles, and an overall more successful project.

The parking is allocated proportionally to each building and, although conservatively estimated, is not, in the Board’s view, excessive, particularly given that 200 of the spaces are being banked, for which a condition of this approval is that the Applicant would need to consult with Township staff as to their location, and the staff could “require that some or all of the banked spaces be installed” (condition dd). The Applicant remains well within the limit of impervious coverage, which is not significantly increased by the proposed number of parking spaces as a proportion of overall coverage. Moreover, the proposed number of parking spaces was vetted and worked out with municipal staff during the technical review process, and the Township Planning expert, Mr. Novak, testified that he did not object to the proposed number and agreed with the rationale based on industry and ITE standards. The Applicant is also meeting the required number of Make-Ready/electric vehicle charging stations and handicap accessible spaces. For the foregoing reasons, the Board finds this waiver request to be reasonable and within the general purpose and intent of the ordinance, which is to ensure adequate parking, and adequate parking is being provided. Literal enforcement of this requirement would exact undue hardship on the Applicant by preventing it from providing parking that is adequate for the proposed size of the facility. Subject to the Applicant meeting the conditions of this approval, this waiver is therefore granted.

b. Waiver: From Section 200-27D(1), permitting 147 loading bays, whereas 910 loading bays are proposed.

Waiver granted. The loading docks allow trucks to load up or off-load product from and into the warehouses. They are an essential element of the facility’s function and efficiency of operation: without loading bays, an industrial-scale warehouse would probably not be a warehouse. The proposed number, like the proposed number of parking spaces, exceeds the ordinance standard, which is, like the parking standard, an absolute number based on building square footage, providing neither minimum nor maximum thresholds for different uses. As Mr. Novak testified, the ordinance applies the same loading dock standard to a wide variety of

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different uses: retail stores, financial institutions, educational facilities, restaurants, wholesale, warehouse, general service, manufacturing and industrial establishment. This, he explained, makes the standard “somewhat general in nature” insofar as it tends to narrow the function of loading berths to a kind of accessory feature of commercial and industrial buildings, rather than as an integral element of the use itself. Mr. McDonough testified that the proposed number of loading docks is based on an industry standard of one loading dock per 5,000 s.f. Mr. Novak indicated that he did not object to this standard or the number of proposed loading bays.

Asked by a Board member whether the number of loading docks, if reduced, would result in less truck traffic and turnover on the Site, Mr. Pehnke testified that “there is no correlation between the number of trips and the [number of] loading docks;” rather, he explained, it is the size of the building and tenancy type that determines the type of activity and turnover while the “loading docks really relate to the internal operations of the building.” Reducing the number of loading docks, on this basis, would not affect the number of trucks but rather create “operational difficulties both internal and external to the building” that, in Mr. Pehnke’s view, would not be consistent with the purpose and intent of the use and site design being proposed. This makes certain logical sense, and the Board finds Mr. Pehnke’s testimony persuasive. The use is a permitted use and the size of the facility is permitted. It is reasonable that the Applicant should want to optimize the utility by providing loading bays in proportion to the facility’s size to allow for proper function. That would not be possible without this waiver. Reducing the number of loading bays, on the other hand, would not make sense without reducing, quite drastically, the size of the facility, raising the murky question of how great a reduction and what number of loading docks would be appropriate, or indeed whether a warehouse facility could be scaled differently at all in such a way as to remove or significantly reduce the degree of the design waiver. The Board is not qualified or authorized to determine such questions. Reconfiguring the site design to achieve such reductions would clearly go beyond the Board’s jurisdiction and amount to a constructive denial of the application. As advised by the Board Attorney in a June 13, 2022 Memo to the Board, which was publicly posted on the Township’s website prior to the Board’s deliberation of the application, if this waiver is not granted, “the plans as presently constituted cannot be realistically adjusted by reducing the number of loading spaces to avoid the need for the waiver.”

The Board determines that, under the circumstances, the waiver is reasonable and justified, given the conditions of approval that mitigate impacts due to the size of the project and its traffic impacts, such as the prohibition of eastbound truck traffic exiting the Site onto Clarksville Road and the requirement of the Master Plan Road connection to U.S. Route 1,

conditions m-q and jj. Without these protective conditions, which form the basis for the waiver, the waiver is not justified, and, should the conditions be struck down, the waiver must be denied and, with it, the application. For the foregoing reasons, granting the waiver is reasonable and within the general purpose and intent of the ordinance, which is to ensure that adequate loading facilities are provided without a negative impact on the road system, particularly Clarksville Road, and the community, and, more broadly, to encourage warehouse and distribution uses in the district. Literal enforcement of this requirement would be impracticable as, without it, the project could not be approved. Subject to the Applicant meeting the aforesaid conditions, this waiver is therefore granted.

*Signage –*

c. Waiver. From Section 200-32B(8)(c), which permits a maximum size of two s.f. for instructional signage, whereas instructional signage of 12 s.f. is proposed.

Waiver granted. The proposed instructional signage is to provide street address identification and way finding, its primary purpose. Mr. McDonough testified that the proposed size is required for proportionality with the scale of the facility. The Site will consist of multiple industrial-sized buildings connected via roadways and access drives, for which larger signs than are permitted by ordinance are critical for safe and efficient navigation. Relative to the amount of space that the buildings will occupy, the proposed signage will not be excessive or create visual clutter or over branding. For these reasons, the Board finds this waiver request reasonable and within the general purpose and intent of the ordinance, which is to ensure that adequate but not excessive or oversized signage is provided. Literal enforcement of this requirement would exact undue hardship on the Applicant by preventing it from enhancing the visibility and accessibility, and therefore the safety, of the Site. Accordingly, this waiver is granted.

d. Waiver. From Section 200-32B(11)(b), which permits a maximum height of eight inches for street address signage, whereas street address signage with a height of 24 inches is proposed.

Waiver granted. This waiver is granted for reasons similar to those given for waiver “c.” Larger signage requires proportionally larger lettering; one does not make sense without the other. The larger lettering, like the sign size, will assist truck drivers and passenger vehicles in efficiently and safely locating the buildings on site. Accordingly, this waiver request is reasonable and within the general purpose and intent of the ordinance, which is to ensure there is adequate, but not excessive or oversized signage. Literal enforcement of the ordinance provision

would work an undue hardship on the Applicant by preventing it from providing signs that are adequately visible and functional. This waiver is therefore granted.

e. Waiver. From Section 200-32B(3)(b), which permits a maximum sign area, including structure, of 48 s.f. for monument signs, whereas monument signage of 60 s.f., including structure, is proposed.

Waiver denied. The Board voted 8-0 to deny this waiver. The Applicant did not provide adequate proofs to support granting a waiver for the proposed size of the monument signs. The Board finds that the scale and size of the buildings will be large enough to be visible to anyone trying to locate it, obviating the need for such enlarged monument signs. Unlike the proposed instructional signage for which the Board found waivers to permit a larger size to be justified, monument signage provides a less critical wayfinding function than instructional signage, and while it serves legitimate branding and advertising purposes, the significantly greater visual impact of a free-standing monument sign must be taken into consideration. In this case, a 60 s.f. sign would be excessive and unnecessary, in the Board's view, and does not come within the intent and purpose of the ordinance, which, as noted above, is to ensure that there is adequate, but not excessive or oversized signage. The Applicant's branding and advertising objectives can be more appropriately served with a conforming monument sign. For these reasons, this waiver is denied.

f. Waiver. From Section 200-32B(3)(c), which permits a maximum sign height, including structure and sign area, of four feet, whereas monument signage 16 feet high, including structure and sign area, is proposed.

Waiver denied. The Board voted 8-0 to deny this waiver for the same reasons it denies waiver "e" above.

*Landscaping –*

g. Waiver. From Section 200-13C(3)(e), requiring trees of five or more inches in caliper to be specifically located and identified, whereas such trees are not being identified.

Waiver granted. The sheer size of the Site, at 645 acres with many trees, would make the task of identifying all trees with five or more-inch caliper an extremely onerous one, and not necessarily meaningful for purposes of the ordinance, as, about a third of the Site will remain

completely untouched and the purpose of the ordinance is to locate and quantify the number of trees being disturbed by a development. Instead, the Applicant agreed to work with the Township to grid out a certain area of the Site to estimate the number of trees that would be disturbed by the project and quantify the overall number of trees. Subject to this commitment, the Board finds this waiver request to be reasonable and within the general purpose and intent of the ordinance, which is to ensure a tree inventory is established to keep track of how many trees will be disturbed and such inventory is being established through the sampling of trees in certain areas of the Site for purposes of quantifying the overall number in accordance with the ordinance. Literal enforcement of this requirement would exact undue hardship on the Applicant by requiring an overly burdensome tree count whereas the intent and purpose of the ordinance can reasonably be met with alternative sampling approach that has been proposed. Accordingly, this waiver is granted.

h. Waiver. From Section 200-91P(5)(b)[4], requiring one 4-inch caliper tree for every 40 linear feet of building perimeter for buildings over 10,000 s.f. to be planted within 75 feet of the building, whereas 4-inch caliper trees are proposed to be planted within 100 feet of the building.

Waiver granted. Mr. Waisnor testified that due to the buildings' design and operation there is not much good planting area immediately adjacent to the buildings within the required 75 feet. Working with municipal staff to find a solution that would meet the spirit and intent of the ordinance, which is to have sufficient buffering of trees around large buildings, the Applicant proposed to plant 362 trees within 100 feet of the building, which will be upsized to be 4-inch caliper. As Mr. McDonough testified, the increased distance for these plantings will be more proportional to the size of the buildings. Mr. Dobromilsky had no objection to the proposed approach, finding it to be a "reasonable compromise" given the scale of the project and proposed use. For these reasons, the Board finds this waiver to be reasonable and within the general purpose and intent of the ordinance, which is to ensure that large buildings are adequately buffered by trees, and adequate buffering by trees is being provided. Literal enforcement of this requirement would exact undue hardship on the Applicant by requiring it to plant trees in suboptimal conditions for purposes of complying with the ordinance for no obvious benefit, and possible detriment to the landscape plan. Subject to the Applicant meeting the condition of approval with respect to this waiver, this waiver is, accordingly, granted.

*Storm Water Management –*

i. Waiver. From Section 200-91P(4)(a)[1][a], which requires storm water detention areas to be graded “creatively to blend into the surrounding landscape and imitate a natural depression with an irregular edge,” whereas the proposed landscaping design does not conform strictly with this requirement.

Waiver granted. The Applicant proposes geometrically-shaped detention basins whereas the ordinance requires naturally/irregularly-shaped basins to give a more natural appearance. Mr. Waisnor and Mr. McDonough testified that the need for the “more gridded pattern as opposed to curvilinear pattern” relates to the nature of the use and layout of buildings, the drainage patterns and land form. Mr. Waisnor testified, moreover, that while not in strict compliance, the proposed plan meets the intent of the ordinance because the basins will be planted with many shrubs and trees within the basin itself. So while they will function as basins, they will not appear as unnatural rectilinear features throughout the project as they will be buffered and planted by shrubs and trees to appear natural and consistent with the overall design even though the shape of the basins will be more rectilinear. For these reasons, the Board finds this waiver to be reasonable and within the general purpose and intent of the ordinance, which is to ensure that storm water management features blend naturally with the surrounding landscape. Literal enforcement of this requirement would exact undue hardship on the Applicant by requiring it to alter the storm water management design for mainly aesthetic reasons that could interfere with their functionality and serves no purpose that cannot be served by the proposed design. Accordingly, this waiver is granted.

j. Waiver. From Section 200-207.4U(7), which permits stormwater basins to be located within any yard setbacks or landscaped buffers provided that a maximum of 50% of the basin may be located within the buffer area, whereas eight stormwater basins located entirely within a buffer area are proposed.

Waiver granted. Mr. Waisnor testified that the reasons that the basins along Clarksville Road fall more than 50% within the buffer area is that they will be taking runoff from Clarksville Road that will flow into the basins, thereby treating the storm water at the source, rather than having to move the water across the Site. In addition, substantial plantings and berms of 10-17 feet high are proposed between Clarksville Road and the building, which would not be possible if the runoff had to be redirected, and which will also visually blend with the environment and soften the perimeter design of the development. So there will be a sufficient buffer and the basins will serve an important storm water function in their proximity to Clarksville Road and within the buffer area. In addition, there is additional green area between the basins and the front façade



of the buildings. For these reasons, the Board finds this waiver to be reasonable and within the general purpose and intent of the ordinance, which is to ensure that buffer space dedicated for landscaping is not occupied by storm water basins. Literal enforcement of this requirement would exact undue hardship on the Applicant by requiring it to relocate and redesign a significant number of storm water basins in a way that is less effective than the proposed design, whereas as the proposed design meets the spirit of the ordinance. Accordingly, this waiver is granted.

*Lighting –*

k. Waiver. From Section 200-29G(1), requiring all parking areas to be lit to provide a minimum of 3.0 footcandles at driveway intersections with main roads and a total average illumination of 0.5 footcandle throughout the parking area, whereas an average light intensity for the parking areas of between 1.7 to 2.0 footcandles for passenger car parking, and between 2.2 and 2.4 for truck parking is proposed.

Waiver granted. The parking lot areas and truck courts will have a minimum of 0.5-foot candles, whereas higher averages for both cars and trucks are proposed. Mr. Waisnor testified that the proposed minimum is in accordance with the recommendations of the Illumination Engineering Society of North America but exceeds the ordinance requirement of an average of 0.5 footcandles. The proposed higher averages are designed to enhance safety of site circulation and are consistent with industry standards, which can withstand and require higher intensity lighting for security and circulation reasons. Importantly, no neighboring residential properties will be impacted by the increased lighting intensity on site. For these reasons, the Board finds this waiver request to be reasonable and within the general purpose and intent of the ordinance, which is ensure that lighting is sufficient without adversely impacting residential uses. Literal enforcement of the ordinance provision would work an undue hardship on the Applicant by requiring it unnecessarily to alter its lighting plan for no obvious benefit but a downside of lessening the optimal illumination for the Site. This waiver is therefore granted.

l. Waiver. From Section 200-31K(1), requiring light levels in parking lots to be an average of 0.5 footcandles throughout, whereas average illumination of passenger parking areas is proposed to be between 1.7 to 2.0 footcandles, with 0.5 footcandles being the minimum spot illumination, and average illumination of truck parking areas is proposed to be between 2.2 to 2.4 footcandles, with 0.5 being the minimum spot value.

Waiver granted. This ordinance requirement substantially overlaps with Section 200-29G(1) in connection with waiver “k” above, and this waiver is granted for the same reasons.

m. Waiver. From Section 200-31K(2), requiring light levels at intersections to be 3.0 footcandles, whereas the proposed average light levels at intersections range from 3.1 to 4.4 footcandles.

Waiver granted. This waiver is granted for similar reasons as for waivers k and l above, except that the ordinance standard in this case is an absolute one whereas the proposed illumination is an average, meaning some points of illumination will be higher and some lower, but the proposed average only minimally exceeds the ordinance standard. Lighting at intersections generally needs to be higher than at other site locations given the increased usage and potential for interaction among vehicles going in different directions. Again, the proposed illumination will not impact any neighboring residential properties. Thus, the Board finds this waiver request to be reasonable and within the general intent and purpose of the ordinance, which is ensure that lighting is sufficient without adversely impacting residential uses. Literal enforcement of the ordinance provision would work an undue hardship on the Applicant by requiring it unnecessarily to alter its lighting plan for no obvious benefit and possible downside by lessening the optimal illumination for the Site. This waiver is therefore granted.

n. Waiver. From Section 200-31K(3), requiring no more than a 1.0 intensity in footcandles at property lines, whereas greater intensity in footcandles at property lines is proposed at driveway intersections with the widened Clarksville Road.

Waiver granted. All of the perimeter lighting is zero, as shown by the blue shaded areas on Exhibit A-11 (Lighting Exhibit) except for minimal points at driveway intersections with the widened Clarksville Road. Although east-bound turns by truck onto Clarksville Road are prohibited, curb cuts are permitted at the intersection of Clarksville and the Master Plan Road and for at least one emergency vehicle access point, and lighting will need to exceed 1.0 intensity in footcandle at those points to ensure safety. This waiver is triggered by the fact that Clarksville Road is County property, but no residential properties or other neighbors are impacted by any light spillage from the site. Thus, the Board finds this waiver request to be reasonable and within the general purpose and intent of the ordinance, which is ensure that lighting is sufficient without adversely impacting residential uses. Literal enforcement of the ordinance provision would work an undue hardship on the Applicant by requiring it unnecessarily to alter its lighting plan for no

obvious benefit but a downside of lessening the optimal illumination for the Site. This waiver is therefore granted.

*Submission waivers*

o. Twelve submission waivers, most partial and relating to the fact that preliminary and final approvals are being sought concurrently, are sought as described below. The Board finds these waiver requests to be reasonable and within the general purposes and intent of the ordinance for the reasons set forth below. Literal enforcement of these requirements would exact undue hardship upon the Applicant by requiring information that is being provided by the Applicant at the appropriate time, or has been sufficiently provided. Accordingly, these waivers are granted.

*Subdivision checklist*

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|---|--|
| <p><u>1</u> <u><i>Waiver (partial)</i></u>: From Section 200-53C(1), which requires a key map at a scale not smaller than 1" = 1,000' showing the relationship of the entire tract to the neighborhood at least 1,000 feet beyond its boundaries, whereas a map at a scale of 1" = 2,000' was provided.</p> | <p><u><i>Partial waiver granted.</i></u> Due to the size of the development and clear visibility of existing conditions on the key map that was provided, the intent of this checklist requirement is met.</p>   |
| <p><u>2</u> <u><i>Waiver (temporary)</i></u>: From Section 200-53C(4)(a), which requires at least two permanent bench marks to be established for each 50 acres of the tract to be subdivided, whereas no bench marks are provided on the subdivision plat.</p>   | <p><u><i>Temporary waiver granted.</i></u> The required permanent bench marks will be provided at the time of compliance review.</p>   |
| <p><u>3</u> <u><i>Waiver (temporary)</i></u>: From Sections 200-53C(19) and (23), requiring submission of an NJDEP Letter of Interpretation (LOI) indicating the presence or absence of freshwater wetlands on the Site, whereas such LOI was not provided.</p>   | <p><u><i>Temporary waiver granted.</i></u> An LOI Extension document with an expiration date of December 19, 2020 was provided, the validity of which is extended until March 16, 2022 due to the COVID-19-related Permit Extension Act. An application for Freshwater Wetlands permitting was submitted to the NJDEP prior to the expiration date. Obtaining the required NJDEP permits is a condition of this approval, as provided in the Conditions section below.</p> |

4. Waiver (partial): From Section 200-54C(10), requiring final construction plans showing proposed utility layouts and connections to existing or proposed utility systems, whereas such plans are not being submitted at this time.

Waiver granted. This item relates to a situation where preliminary and final major subdivision plan approvals are sought separately, whereas concurrent approvals are sought in this application.

5. Waiver (partial). From Section 200-54C(11)(a), requiring a final drainage plan, whereas a final plan is not being provided at this time.

Waiver granted. This item relates to a situation where preliminary and final major subdivision plan approvals are sought separately, whereas concurrent approvals are sought in this application.

6. Waiver (partial). From Section 200-54C(12), requiring a Soil Erosion Plan to be submitted, whereas such plan is not being provided at this time.

Waiver granted. This item relates to a situation where preliminary and final major subdivision plan approvals are sought separately, whereas concurrent approvals are sought in this application.

7. Waivers (partial). From Section 200-54C(13)(a) and (b), requiring a proposed grading plan to be submitted, whereas such plan is not being provided at this time.

Waivers granted. This item relates to a situation where preliminary and final major subdivision plan approvals are sought separately, whereas concurrent approvals are sought in this application.

8. Waiver (partial). From Section 200-54C(14), requiring a copy of the preliminary approval resolution to be provided, whereas such resolution is not being provided.

Waiver granted. This item relates to a situation where preliminary and final major subdivision plan approvals are sought separately, whereas concurrent approvals are sought in this application.

9. Waivers (partial). From Section 200-54C(18)(a) and (b), requiring an as-built lot grading plan to be submitted, whereas such plan is not being submitted at this time.

Waivers granted. This item relates to a situation where preliminary and final major subdivision plan approvals are sought separately, whereas concurrent approvals are sought in this application.

#### Site Plan Checklist

10. Waiver (partial). From Section 200-14C(1)(a), requiring a copy of the approved preliminary site plan to be provided, whereas such plan is not being provided at this time.

Waiver granted. This item relates to a situation where preliminary and final major site plan approvals are sought separately, whereas concurrent approvals are sought in this application.

11. Waiver (partial): From Section 200-14C(1)(b)[1], requiring final plans to include construction details specified at the time of preliminary approval, whereas such details are not being submitted at this time.

Waiver granted. This item relates to a situation where preliminary and final major site plan approvals are sought separately, whereas concurrent approvals are sought in this application.

12. Waiver (partial): From Section 200-14C(1)(b)[5], requiring a final landscape plan substantially conforming to the approved preliminary landscape plan to be submitted, whereas such plan is not being submitted at this time.

Waiver granted. This item relates to a situation where preliminary and final major site plan approvals are sought separately, whereas concurrent approvals are sought in this application.

#### CONDITIONS REQUIRED

165. The Board finds that, in order to address the concerns expressed during the course of the hearing and to limit the relief to that reasonably necessary to satisfy the Applicant's legitimate requirements, the relief granted is subject to the following conditions:

##### Site plan

a. The plans shall be revised to be consistent with Exhibit A-3 "Plan Rendering – Phase I", prepared by Langan (dated May 11, 2022), Exhibit A-4 "Plan Rendering – Phase II", prepared by Langan (dated May 11, 2022), testimony of the Applicant's witnesses, and these conditions.

b. At least two permanent benchmarks ("BMs") are to be established for each 50 acres of the tract to be subdivided. That would equate to 14 BMs for the Block 8 tract and 14 BMs for the Block 15.14 tract. BM monumentation satisfactory to the Township Engineer shall be provided during compliance review. The notes on Sheets 4 and 5 of the subdivision plat providing for later installation shall be deleted.

c. The Applicant shall secure applicable NJDEP Watershed and Land Use Management permits for all required approvals based on the wetlands delineation as shown on the Freshwater Wetlands Letter of Interpretation previously issued by DEP.

d. Any changes deemed significant, as determined by the Board Attorney in consultation with the municipal staff, subsequent to this approval will require an amended approval, and an application therefor shall be submitted to the Township.

e. Metes and bounds descriptions of the subdivision plat, all parcels, and proposed easements to be created, along with closure calculations, shall be submitted to the Township Engineer and be subject to his review and approval. Deed and easement instruments shall be submitted to the Board Attorney and be subject to his review and approval.

f. The development is proposed to be completed in two phases with Phase I consisting of Buildings B1, E1, and C1 and associated improvements and with Phase II comprising the remaining buildings, A1, B2-1, B2-2 and D1. Phasing plans that definitively show the limits of all Phase I construction including grading, utility and storm water installation, while greying out everything that is part of Phase II, shall be provided. The detailed development plans (site plans, utility plans, etc.) shall each identify the limits of Phase I and Phase II and depict proposed site conditions at Phase I completion prior to Phase II commencement, similar to what was provided for Phase I grading plans. This is in addition to the Overall Site Plan and Utility Phase I drawings.

g. The plans shall be clarified to show that the bike path will be composed of asphalt and the sidewalks will be composed of concrete.

h. The Applicant shall adhere to New Jersey law with respect to electric vehicle charging stations' signs and symbols/markings.

i. The Land Use/Land Cover chart (Table 6 in the EIS) shall be clarified to make clear if the lands remaining along Quakerbridge Road are included or not included. In addition, the EIS shall be revised in a manner satisfactory to the Township Landscape Architect to correct discrepancies between the chart and the narrative.

j. The Applicant shall work with the Township staff on the type and material of eight-foot high fence that is behind the vegetation on Quakerbridge Road. The staff will have the final decision-making power with respect thereto.

k. All of the berms on Clarksville Road shall be installed during and included in Phase I.

l. Standards for the incorporation of accessory structures, such as guard houses, emergency generators, sheds, and outdoor material storage and fencing therefor shall be addressed when the first tenant proposing the same comes in with a site plan or building permit application providing for same.

*Traffic, Access, Circulation, and Parking*

m. No warehouse construction shall begin on either Phase I or Phase II until both of the following occur:

- i. The DOT issues a permit for the construction of the connection between the Master Plan Road and U.S. Route 1; and
- ii. The Avalon Road and Quakerbridge Road signalized intersection is approved by all parties having jurisdiction in accordance with the Board-approved plans.

n. No Certificate of Occupancy or Temporary Certificate of Occupancy shall be issued until both of the following occur:

- i. The Master Plan Road is fully constructed and operational in accordance with the approved plans, including the intersection with U.S. Route 1; and
- ii. The Avalon Road and Quakerbridge Road signalized intersection is fully operational in accordance with the approved plans.

o. Signage shall be installed at locations and in a form acceptable to the Township Engineer and the Township Traffic Engineer barring turns eastbound (in the direction of Princeton-Hightstown Road) by trucks from the development directly onto Clarksville Road from the Master Plan Road, with accompanying geometry changes as necessary to the intersection of Clarksville Road and the Master Plan Road to create a physical barrier on both sides of Clarksville Road to prevent trucks turning eastbound in the direction of Princeton-Hightstown Road. Turning prohibitions shall be enforceable by West Windsor Police. The signage and accompanying geometry changes shall be subject to Mercer County approval as necessary.

p. The Township and Applicant shall work together to obtain County approval for the signage and geometry changes barring eastbound turns by trucks from the development onto Clarksville Road, and shall work together to apply for no turns by trucks onto Clarksville Road from Route 571 (Princeton-Hightstown Road).

q. No curb cuts shall be permitted on Clarksville Road except where it intersects with the Master Plan Road, and for at least one emergency vehicle access point, subject to the approval and recommendation of the West Windsor Township Fire and Emergency Services Chief.

r. The intersection of the Master Plan Road and U.S. Route 1 shall be constructed as soon as the DOT permit therefor is issued.

s. Traffic reports shall be prepared by the Applicant upon the full occupancy of Phase I and for three consecutive years starting with the first anniversary of the occupancy of Phase I. The traffic reports shall include, in addition to standard distances, all signalized intersections through the full length of Clarksville Road in West Windsor.

i. The traffic reports shall include information as to how the tenants are advised of and are implementing means and methods of traffic reduction through rideshare, shuttles to/from the Princeton Junction train station and other public transportation opportunities. The tenant information shall include what amenities are being provided to keep employees on campus or provide options to use personal vehicles (e.g. bike share, e-scooter share). The Applicant shall include the same categories of information in all the reports.

ii. The Applicant shall share all the traffic reports with the Township Engineer and Township Traffic Consultant.

t. Parking spaces for temporary trailer storage are being provided with each building. The Developer's Agreement shall include a provision setting forth what controls will be implemented to prevent misuse (storage of other goods or materials, tractor/truck parking, etc.). Trailer parking spaces shall be restricted to storage of disconnected licensed trailers only, in good working order.

u. The Master Plan Road, as per the subdivision plat, provides for a 10-foot bikeway and 5-foot sidewalk. The Applicant has provided for a single crossing of this road between Clarksville Road and U.S. Route 1. A Rectangular Rapid Flashing Beacon (RRFB) for pedestrian safety due to the width of the road and volume of traffic expected shall be installed when warrants support installation.

v. The Applicant shall construct the trail connection towards Bear Brook Road per the Master Plan Circulation Plan Element (Map 02, Quad 1), using the sewer easement, to the end of the property.



w. The Applicant shall work with NJ Transit, if NJ Transit decides to pursue bus routes adjacent to or within the development. The Applicant shall install bump outs and maintain shelters, if bus routes are provided for. Typical construction details shall be added to the plans and construction drawings, to be installed when and if NJ Transit identifies the locations.

x. The Applicant shall provide sufficient grade information at all barrier free ramps/parking spaces and accessible routes to building entrances to determine compliance with barrier free standards. Ten-scale detailed enlargements of same shall be used as necessary to provide legible information. The details provided (three sheets, all labeled CG401) address only parking stalls, and they do not provide ramps to the adjacent sidewalk network. In addition to adding accessible-ramp access to all accessible stalls, detailed grading of all crosswalks and ramps shall be provided.

y. Fire lanes shall be provided and appropriately marked at the direction of Chief Lynch of West Windsor Fire and Emergency Services.

z. Prior to construction, as part of the pre-construction meeting with municipal staff, the Applicant shall provide proposed construction routes, including video documentation of the preconstruction condition of the roads within the Township used for construction access and deliveries. The Applicant shall timely repair deterioration of local roads attributed to its construction traffic.

aa. The Applicant shall provide design hourly volumes requested by DOT for the Clarksville Road-Meadow Road intersection.

bb. The Applicant shall coordinate with the County to optimize signal timings on Quakerbridge Road with a proposed signal at Lawrence Station Road.

cc. The Applicant shall meet with staff to discuss traffic signing and the Traffic Signing Plan that has been provided. Discussion shall focus on choice and placement with signage, both of which will be subject to the review and approval of the Township Engineer and Township traffic consultant.

dd. 200 parking spaces for automobiles are proposed to be banked. If the Applicant wishes to install some or all of them, it shall engage with the Township staff as to their location. Whether to install them and where shall be subject to the review and approval of the Township

staff. The staff on its own initiative may require that some or all of the banked spaces be installed.

ee. The Applicant shall coordinate with Mercer County and the Township Engineer to extend the proposed shared path along Quakerbridge Road as far as practicable toward the Amtrak Overpass within available right-of-way, NJDEP permitting constraints, and grading constraints as may be approved by Mercer County.

ff. No automobile parking outside of the automobile parking areas or truck parking outside the truck parking areas shall be permitted.

gg. On Sheet CS100, the driveway connecting Building C1 to the roadway between C1 and B1 shall be either eliminated or moved more to the northeast, subject to the approval of the Township traffic consultant.

hh. The Applicant shall coordinate the design of the Quakerbridge Road widening with Mercer County with consideration of future potential changes to the Lawrence Station Road intersection location previously considered by Mercer County.

ii. The Applicant shall arrange for Title 39 enforcement on the Site by West Windsor Police.

jj. As part of a submission of an application for final site plan approval for Phase II, the Applicant shall work with the Township Engineer and Township Traffic Consultant to review ways in which the plan may be modified to further limit truck traffic on Clarksville Road. The plan shall address truck traffic coming from Princeton-Hightstown Road into the warehouse site.

kk. The Applicant agrees to the employment of best practices for reducing diesel emissions on-site and in the site surroundings and to require the same in its tenant leases. This includes no idling in violation of state code, and the use of particulate filters, which also require best practices in truck maintenance and operation.

#### *Noise*

ll. The need, value, and potential to employ measures to limit or diminish night-time noise production at the facilities closest to residential areas shall be addressed when the Applicant applies for final site plan approval for Building A1. The Applicant shall assess the need and

value of potential noise reduction measures, such as use of certain operational equipment on trucks and at the docks, including pneumatic dock levelers. Compression brakes are prohibited.

mm. Prior to the issuance of a Certificate of Occupancy, the Township shall engage a professional sound specialist to do a base study of the noise level to assess the sound levels to ensure that the Applicant complies with the noise regulations. The sound specialist shall do another noise test post-occupancy of each Phase II building to ensure compliance with noise regulations. If the original test or a subsequent test indicate that State or local code standards are violated, the Applicant shall take corrective steps to comply. The Applicant shall pay for these noise studies.

nn. The Health Department shall have access to do further testing whenever it desires without notice to the Applicant or tenants upon completion of the first Phase I or II building or any other Phase I or II improvements.

oo. The Developer's Agreement, subject to the review and approval of the Board Attorney and recorded by him, shall indicate when testing as set forth herein may occur and contain the requirement of remedial action if Township and State standards are violated. This resolution shall be attached to it.

pp. If noise studies or measurements in response to complaints show that the State and Township *dBA maxima* are exceeded, remediation will be necessary. The Applicant shall make, subject to the review and approval of Township staff, such operational or other changes as are necessary to comply.

#### *Landscape and Conservation*

qq. The conservation easements associated with the environmentally constrained lands, subject to DEP review and approval, on these properties should include the Township and thus establish the recorded Greenbelt in this area.

rr. The means of demarcating the conservation easement lines on the property (e.g., Greenbelt monuments) shall be subject to review and approval by the Township staff.

ss. The May 25, 2022 Air Quality Statement shall be included in the record. A further air quality study shall be done a) after construction of Phase I improvements but prior to any

building occupancy, to provide a base line and b) post-occupancy and these shall include a measure of particulate matter/solids.

tt. A note shall be added to the plans providing for review by staff of fencing as building permits are applied for each building. The fencing established shall be designed to mitigate wildlife impacts that could be the result of any fencing.

uu. The final planting schedule shall be amended to include additional plant size range specification, including the height for caliper trees and height and spread for shrubs.

vv. A note shall be inserted on the final landscape plans indicating that any additional ground level utility elements (c.g. water meter hot box or irrigation equipment) will be screened by landscape plantings.

ww. The 362 trees that are proposed within 100 feet of each building shall have a caliper of at least four inches.

xx. As the landscape plans are finalized for each building, the extent of hose bibs and need for automatic irrigation of landscape areas shall be evaluated and specified, subject to Township staff review and approval.

yy. The plan shall be modified to include birdhouses and, at the Applicant's option, bat houses. The design and location of same shall be subject to the review and approval of the Township staff.

zz. The Applicant shall make the roof areas other than the areas on which equipment is being located solar-ready. The warehouses shall comply with the New Jersey solar ready law (A3352).

aaa. The CEA in which contamination occurred has been remediated, and a No Further Action (NFA) letter has been issued by the DEP. Monitoring wells were installed and have been capped. The elevation of the existing and capped monitoring wells shall be adjusted to meet the proposed finished grades. A note shall be added indicating the required modifications to the existing monitoring wells.

bbb. The Applicant shall provide a schedule to Township staff from the property owner for the removal of rubble that will not be used during the project and the existing crushed demolition material that will be reused. The schedule must be reasonable and is subject to the review and approval of Township staff. To the extent that the Applicant takes any such material for use in

the construction of the warehouse development, it will test the materials and provide a certification that the materials are in compliance with NJDEP Site Remediation Standards for their intended use. The testing shall cover asbestos.

ccc. The Applicant shall work with the Township to grid out a certain area of the Site to estimate the number of trees that would be disturbed by the project and quantify the overall number of trees.

#### *Building Architecture*

ddd. The architectural façade design, materials, and colors shall remain uniform.

eee. If offices are not at each corner, or less office space at such locations, the architectural features shown on Exhibit A-14 "Proposed Elevations – Facility B-1" prepared by Cornerstone Architects (dated March 29, 2022) and the plans shall nevertheless remain the same.

fff. Windows that may allow visibility of internal racking or storage shall be treated with an opaque finish.

#### *Signage*

ggg. The Applicant has provided a generic wall sign template. Once tenants have been identified, the specific signage shall be provided to administrative staff in order to ensure compliance with Section 200-32B(2). The wall signs shall not be illuminated.

hhh. If tenant signage conforms to the submitted signage package, such signage can be approved administratively.

iii. Signage in a form and location subject to the review and approval of Township staff shall be provided addressing anti-idling regulations. Anti-idling regulations shall be enforced.

#### *Stormwater Management*

jjj. The emergency rules that DEP intends to adopt, known as PACT (Protecting Against Climate Threats), shall apply to the application if the rules are adopted and the rules would apply to the application at the DEP level.

kkk. Due to the extensive number of Green Infrastructure Best Management Practices ("GI BMPs"), significant earthwork will be performed and fill imported to implement proposed storm water management measures. This shall be done under the supervision of a NJ-licensed geotechnical engineer, with testing of each BMP's infiltration rate after construction. A note to this effect shall be added to the plans.

lll. As per Code Section 200-105, the Applicant is required to enter into an agreement with the Township, in a form satisfactory to the Board Attorney, requiring the installation and maintenance by the Applicant and the Applicant's successors-in-interest of all stormwater management improvements proposed by the Applicant and approved by the Board.

mmm. A Stormwater BMP Maintenance Plan has been prepared and found by the Township Engineer to be missing some key elements. The Applicant shall address the deficiencies in a manner acceptable to the Township Engineer during resolution compliance.

#### *Utilities*

nnn. A 20-foot wide easement is proposed along the extension of the sewer line along the north edge of the property, which addresses the Master Plan Utilities Plan Element requirement for the South Branch of the Duck Pond Run Sewer Interceptor. The easement will also extend from MH6 to the east property line with adjacent Lot 13 to service other properties north of the development. A stable access way to this portion of the system shall be provided with the sewer installation for future inspection and maintenance purposes, subject to NJDEP approval of wetlands and flood hazard permitting for same. Completion of the South Branch portion of the Sewer Interceptor is required as part of Phase I construction.

ooo. Two on-site sanitary sewer pump stations are proposed to service the properties on the east side of Clarksville Road, as indicated on Sheets CU111 and CU115. Both pump stations are to be privately owned and maintained, and approval of them is required from Township Council per Code Section 133-15E. Detailed designs for both facilities shall be provided, subject to the review and approval by the Township Engineer and the Township Landscape Architect, and are to include a facility Operation & Maintenance (O&M) manual, provisions for back-up power generation, and implementation of odor control measures.

ppp. The Applicant indicates that it has conservatively calculated the future commercial (retail, restaurants, convenience stores, hotel, etc.) sanitary sewer demand at 175,000 gallons per day and provided pipe capacity calculations that indicate the proposed sewer main to be installed

has sufficient capacity for the industrial and future commercial developments. However, no supporting calculations were provided to assess the conservativeness of that maximum flow number or how it has been attributed to the gravity portions of the system and the two pump stations. The Sewer Report shall be updated to include this calculation, subject to the review and approval of the Township Engineer.

qqq. Any intention by the Applicant to seek reimbursement from other future property owners connecting to the sewer main extension shall be addressed through the Developer's Agreement process.

rrr. A Treatment Works Approval will be required for the proposed redevelopment. A request to receive sewer allocation shall go before Township Council, to be approved by Resolution.

sss. The Applicant shall explore the installation of a NJ BPU (Board of Public Utilities) Community Solar program.

#### *Fire and Emergency Services*

ttt. A lock box to allow immediate access by the Fire Department shall be installed at the front of the building.

uuu. The Applicant shall be required by the Fire Official to conduct a radio signal strength survey of the buildings while under construction, and, if deemed necessary, a radio signal amplification system shall be installed.

vvv. The Applicant should be aware of Township fire prevention requirements for, before, and during construction:

- i. F-10005.3 Access: Temporary all-weather surface access roads, gravel or equivalent, capable of supporting a 30-ton emergency vehicle, shall be provided at all times for Fire Department vehicular access to all structures under construction and to all structures used for the storage of combustible construction materials. Access of 125 unobstructed feet shall be provided to all such locations at all times.
- ii. Temporary all-weather surface access roads shall be approved by the Fire Marshal's office prior to construction commencing.
- iii. F-10005.4 Water supply: The fire protection water supply system, including fire hydrants shown on the approved site plan, shall be installed and in service prior to placing combustible building materials on the project site or utilizing them in the

construction of building structures. If phased construction is approved, coordinated phased installation of the fire protection water system shall be permitted as approved by the Fire Marshal.

*Other*

www. Snow storage and removal for the sites, Avalon Way extension, both sides of the Master Plan Road, sidewalks, and bikeways shall be handled by the Applicant's Property Management Division. The Property Management Division will also handle any oil spills and provide maintenance for the development.

xxx. All warehouses shall be designed for only "Storage" Use Group as defined by the New Jersey Building Codes.

yyy. The Applicant shall have extended vesting of 10 years commencing on the date of this approval.

zzz. The Dr. Clarke House was located on the east side of Quakerbridge Road between Clarksville Road and Route 1. Archeological excavation there in 1985 uncovered the foundation of this 18th century farmhouse. The Applicant has retained Richard Grubb & Associates to prepare a Phase 1A cultural assessment as part of the DEP application process. The assessment shall be filed with the Township once it becomes available. The Applicant shall abide by the recommendations of the assessment, including any further study that may be required and recommendations therein.

aaaa. The Applicant shall share with Township staff the results of the archeological work that was done on the south side of Clarksville Road.

bbbb. The Applicant shall install the sign in the vicinity of the former farmhouse where enemy scouts were captured for later interrogation by the Continental Army. The sign was installed by the Girl Scouts as part of a Girl Scouts project and is in the Township's possession. Its location shall be subject to the review and approval of Township staff.

cccc. The Applicant, in conjunction with Township staff, shall also evaluate additional signage along the Quakerbridge Road path commemorating General Washington's historic march from Trenton to Princeton. The location and content of such signage shall be subject to the review and approval by the Township staff, who shall determine what signage will be installed. Installation shall be by the Applicant.



dddd. The incinerator on the site has been demolished and removed by the current owner. The closure documentation for that unit and associated equipment, including any remedial activities associated with the incinerator, shall be filed with the Township.

eeee. If any more existing structures need to be removed on the Site in order for a new structure to be built, the Applicant shall obtain a demolition permit and certificate of approval prior to a zoning permit being issued.

ffff. Proposed Block and Lot numbers, street names, and street addresses and unit numbering shall be submitted to the office of the Township Engineer and be subject to his review and approval.

gggg. All construction details, including final design of the stormwater management BMPs and their amenities, shall be subject to the review and approval by the Township Engineer.

hhhh. The Applicant shall provide two engineer's estimates of probable construction costs for this project. One will include all Phase I site improvements for the purpose of establishing the required construction inspection escrow fees, while the other will be used for the purpose of establishing the required performance guarantee amounts. The latter is to consist solely of those improvements in the Township or County right-of-way or improvements ultimately to be dedicated to public entity as well as any proposed buffer landscaping and berming, in accordance with applicable Township codes.

iiii. As per Ordinance section 200-81.1 the Applicant shall be required to provide, via both hard copy and in electronic format, approved site plans being submitted for signature and as-built surveys upon project completion. Electronic copies of the Stormwater Management Report and Maintenance Manual shall also be provided upon approval of same.

jjjj. The Applicant shall pay the affordable housing fee required in accordance with Section 200-126 of the ordinance and the Statewide Non-Residential Development Fee Act.

kkkk. The Applicant shall prepare and execute a Developer's Agreement setting forth the Applicant's obligation with respect to off-tract assessments and certain other conditions of this Approval. A copy of this resolution shall be appended to the Agreement, which shall be subject to the review and approval of the Board Attorney, and which shall be recorded by the Applicant.

III. Other outside agency approvals will also be required. The following are approvals that are anticipated at this time:

- A DOT major access permit
- Mercer County Planning Board
- Mercer County Soil Conservation District
- Delaware and Raritan Canal Commission
- NJDEP (FHA Permit, Wetlands fill, TWA, construction storm water discharge permit)

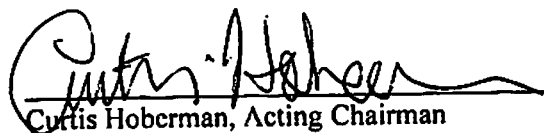
#### CONCLUSION

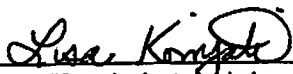
Based on the foregoing, the Board at its June 29, 2022 meeting voted to approve the plans with revisions made therein and as supplemented and modified by the exhibits and to grant the relief identified above subject to the conditions and to be revised in accordance with the conditions set forth herein.

This resolution of memorialization was adopted on November 2, 2022 by a vote of those who voted to grant the relief sought by the Applicant.

The date of decision shall be June 29, 2022 except that the date of the adoption of this memorializing resolution is the date of decision for purposes of (1) mailing a copy of the decision to the Applicant within 10 days of the date of the decision; (2) filing a copy of the decision with the administrative officer; and (3) publication of a notice of this decision. The date of the publication of the notice of decision shall be the date of the commencement of the vesting protection period.

We do hereby certify that the foregoing resolution was adopted by the Planning Board at its regular meeting held on November 2, 2022 This resolution memorializes formal action taken by the Board at its regular meeting held June 29, 2022

  
Curtis Hoberman, Acting Chairman

  
\_\_\_\_\_  
Lisa Komjati, Administrative Secretary

Michael Karp, Former Vice Chair – Yea  
Sue Appelget – Yea  
Anis Baig – Yea  
Curtis Hoberman – Yea  
Andrea Mandel – Yea  
Hemant Marathe – Yea  
Simon Pankove – Nay  
Allen Schectel – Nay  
Jyotika Bahree, Alternate No. 1 – Absent  
Robert Loverro, Alternate No. 2 – Absent