

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

**Approved: September 7, 2023  
Memorialized: December 14, 2023**

**IN THE MATTER OF: NJ RUCKLE REALTY, LLC  
APPLICATION NO. SP-1107**

**WHEREAS**, an application for preliminary and final site plan approval along with ancillary variance and design waiver relief has been made to the Howell Township Planning Board (hereinafter referred to as the “Board”) by NJ Ruckle Realty, LLC (hereinafter referred to as the “Applicant”) on lands known and designated as Block 230, Lot 13.01, as depicted on the Tax Map of the Township of Howell (hereinafter “Township”), and more commonly known as 10 Ruckle Avenue in the SED-2 Special Economic Development 2 (“SED-2”) Zone; and

**WHEREAS**, a public hearing was held before the Board on September 7, 2023, with regard to this application; and

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

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

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

1. The subject Property contains 26.720 acres (1,163,908 square feet) with 50 feet of frontage along Ruckle Avenue, 50 feet of frontage along Ellis Avenue, 172 feet of frontage along

Tinton Falls Road, and 763 feet of frontage along NJSH Route 33/34 within the Special Economic Development (SED-2) Zone District. The rear of the subject Property abuts the southern branch of the Conrail railroad line. The subject Property is improved with an 89,133 square foot two-story warehouse/manufacturing/office building occupied by Merola Tile, along with associated site improvements. Public water and sanitary sewer service are currently available to the subject Property from Ruckle Avenue. Access to the subject Property is provided via the end of Ruckle Avenue. The remainder of the subject Property is wooded and contains freshwater wetlands and is located along the southern portion of the lot. Residential uses are located to the west, industrial uses are located to the south, railroad tracks are located to the east and vacant land is located to the north across NJSH Route 33/34 from the subject Property.

2. The Applicant proposes to construct a 137,925 square foot building addition that will result in a new total building area of 227,058 square feet. The proposed building will be utilized for warehouse and manufacturing and will also contain 13,769 square feet of office space. All existing site features located on the northern portion of the subject Property are proposed to remain. Access to the subject Property is proposed to be provided by the existing access from Ruckle Avenue and by a proposed full movement driveway along Tinton Falls Road. 104 parking spaces located in the northern corner of the subject Property, some of which are existing and some which are proposed, as well as thirty-eight (38) proposed parking spaces located along the southern side of the building addition will combine with the existing parking to remain for the existing building for a total of 193 parking spaces. The building addition will also include eighteen (18) loading dock bays and two (2) drive-in doors. Additional site improvements include concrete sidewalks and curbing, lighting, landscaping, an aboveground infiltration basin and three (3) small-scale aboveground bioretention basins, one (1) new monument sign and wall façade signs, two (2) refuse enclosures, a masonry water

pump house, a concrete patio area with picnic tables, and bike racks. The building addition will also include a new gravity sewer lateral to a force main that will tie into the existing sewer main within Ruckle Avenue, as well as a new water main that will extend from the existing main on-site and will provide looped service around the building.

3. Counsel for the Applicant, W. Lane Miller, Esq., stated that the Applicant was proposing to construct an addition to an existing warehouse/manufacturing building. Mr. Miller represented that the Applicant would be using the building for light manufacturing and packaging.

4. The Applicant's Engineer, Giovanni Manilio, P.E., introduced an Aerial Exhibit dated August 3, 2023 as Exhibit A-18. Mr. Manilio testified that the subject Property was located at 10 Ruckle Avenue within the SED-2 Zone. He stated that the subject Property had frontage along Route 33/34 with no access, Ellis Avenue with no access, Ruckle Avenue with access, and Tinton Falls Road with no access. Mr. Manilio stated that residential uses existed to the east, commercial/industrial uses to the west and north, and vacant land to the north and south. He further testified that the Conrail railroad track was located immediately to the east of the subject Property.

5. Mr. Manilio further testified that the subject Property contained 26.7 acres and was partially developed. He stated that a parking lot was located to the left of the access driveway, which was setback approximately twenty (20) feet from the property line. Mr. Manilio explained that existing parking was also located on the northern side of the building. He noted that the existing building contained 89,233 square feet with one-story and was used for manufacturing and warehouse with ancillary office space. Mr. Manilio stated that the existing loading bays were scattered around the building. He also explained that the building had access to the railroad tracks, although the tracks were not operational. MR. Manilio also stipulated that there was one (1) monument sign at Ruckle Avenue which would be removed.

6. Mr. Manilio also identified isolated wetlands on the southeasterly corner of the subject Property. He stated that the Applicant would be maintaining a fifty (50) foot wetlands buffer. Mr. Manilio also testified that the Applicant had obtained a Letter of Interpretation (LOI) from NJDEP in September of 2022. He also stated that the Applicant had submitted a General Permit-6 application with the NJDEP to fill in the wetlands, which was pending.

7. Mr. Manilio further testified that the subject Property had a public sanitary sewer connection. He stated that public water was in the process of being extended on Tinton Falls Road and would eventually be available to the subject Property.

8. Mr. Manilio also confirmed that 134 parking spaces existed, with 74 located at the front parking lot. He stated that the front parking lot was setback twenty-two (22) feet from the residential properties. Mr. Manilio also explained that the existing building was setback 182 feet from the residential properties.

9. Mr. Manilio next introduced an Aerial Overlay dated August 3, 2023 as Exhibit A-19 which depicted the proposed building addition over the Aerial Exhibit. Mr. Manilio testified that the building addition would have eighteen (18) loading docks and two (2) drive-in doors. He stated that the building addition would contain approximately 4,000 square feet of office space; approximately 73,000 square feet of warehouse space; and approximately 61,000 square feet of manufacturing space.

10. Mr. Manilio explained that a new full movement driveway would provide access to Tinton Falls Road. He stated that this new driveway would be the main access to the site which would accommodate car and truck traffic. Mr. Manilio testified that the Ruckle Avenue driveway would remain but would be signed as passenger car only. He also stated that the mailing address would be changed to Tinton Falls Road.

11. Mr. Manilio also stated that the Applicant was proposing thirty-eight (38) parking spaces which would be located to the south of the building addition. He stated that the Applicant would also reconfigure the existing parking to provide a setback of greater than fifty (50) feet to the residential properties. Mr. Manilio noted that a fifty (50) foot four-season buffer would be provided between the reconfigured parking lot and the residential properties, as well as a fence. He testified that a total of 193 parking spaces would be provided. He stated that the Applicant was not taking any EV credits.

12. Mr. Manilio next testified that the Applicant was proposing a pump house which would be located near the Ruckle Avenue driveway. He stated that the Applicant required variance relief for an accessory structure located within the front yard. Mr. Manilio explained that the purpose of the pump house was to provide for fire suppression and that the location near the front was the most efficient location because it was closest to the water utility connection before the fire suppression loop system.

13. Mr. Manilio then identified a trash enclosure which would be located to the west of the loading docks. He stated that the existing trash enclosure located to the north of the existing building would remain.

14. Mr. Manilio further testified that the Applicant was proposing a buffer to the residential properties along the western side of the subject Property. He stated that the Applicant would replace and supplement the existing tree buffer. He also stated that the Applicant would be providing a walking trail and patio picnic area for use by employees near the buffer.

15. Mr. Manilio also stated that three (3) small stormwater detention basins would be located close to the loading dock area. He explained that one (1) large stormwater detention basin would be located south of the building which would satisfy the quantity requirement of stormwater

management. Mr. Manilio further testified that the roof runoff would recharge at the rear of the building. He noted that the stormwater management system would comply with State and local regulations.

16. Mr. Manilio further testified that the Applicant was proposing one (1) free standing monument sign and one (1) façade sign. He stated that the monument sign would be located at the new access driveway and that the signs would comply with all Ordinance requirements. He stated that the façade sign would be 150 square feet and that the monument sign would be 5'x12' for a total of thirty-six (36) square feet.

17. Mr. Manilio then explained that the building addition would comply with nearly all bulk requirements. He stated that the Applicant did require variance relief to permit an accessory structure within the front yard. Mr. Manilio noted that the buffer non-compliance was pre-existing. He explained that the building was setback 200 feet and 132 feet from the proposed buffer. Mr. Manilio stated that the Applicant was providing a compliant buffer.

18. The Board Planner, Jennifer Beahm, P.P., AICP disagreed with Mr. Manilio's testimony that the Applicant did not require variance relief from the residential buffer. She testified that the Applicant still required variance relief from Sections 188-63A, §188-63D, and §188-63E. Ms. Beahm explained that there was an irregular part of the perimeter that came to a point near Ruckle Avenue and Tinton Falls Road. She stated that the point was not fifty (50) feet wide, therefore a buffer could not be provided there, although one was required.

19. In response to questions from the Board Planner, Mr. Manilio testified that a fifty (50) foot buffer was provided near the parking lot. He also stated that the buffer was a four-season buffer. Mr. Manilio stated that the Board Licensed Tree Expert had reviewed the proposed buffer and determined which trees were worth retaining and which trees had to be replaced. Mr. Manilio further

testified that the Applicant was providing a six (6) foot vinyl fence along the property line to supplement the buffer.

20. Mr. Manilio also explained that the Applicant was seeking waiver relief from several design standards. He stated that the Applicant was seeking design waiver relief from the average parking light average of 0.5 footcandles, whereas 0.8 footcandles were proposed. He noted that the driveway width was required to twenty-four (24) feet wide, whereas thirty (30) feet was proposed. Mr. Manilio also stated that curb ramps were required every sixty-five (65) feet of curbing, whereas curb ramps were only proposed near the ADA parking spaces. He further testified that the required emergency access driveway width was thirty (30) feet, whereas twenty-five (25) feet and twenty (20) feet were proposed. Mr. Manilio testified that the Fire Official had no comment in regard to the emergency access driveways. He stated that foundation plantings were required on all sides of the building, whereas foundation plantings were not required in the loading dock area nor around the existing portion of the building. Mr. Manilio further testified that parking spaces were required to be no more than 300 feet from the building entrance, whereas the existing distance was 451 feet, and 421 feet was proposed. He stated that the Applicant would pay into the Township Tree Fund in lieu of replacing all trees. Mr. Manilio noted that the Applicant would pay into the Howell Township Sidewalk Trust Fund because there was not much frontage along Tinton Falls Road, Ruckle Avenue, Ellis Avenue, and that the longest frontage was along a State highway bridge approach. He also stated that the Applicant was proposing six (6) inch curbs and the building was concrete, however, he agreed to provide bollards to comply with §188-226F.

21. In response to questions from the Board Engineer, Laura Neumann, P.E., P.P., Mr. Manilio testified that only two (2) signs were proposed and that neither require variance relief. He further testified that there would not be any outdoor storage except for a trade show trailer. He stated

that the trade show trailer would be parked within the front yard of Route 33/34. Ms. Beahm advised that variance relief would be required for outdoor storage for the trade show trailer.

22. In response to further questions from the Board Engineer, Mr. Manilio stated that he would verify with the Licensed Tree Expert that the updated tree plan was sufficient. He stated that the existing security gate would be removed. Mr. Manilio explained that the walking path to the trash enclosure would be across the loading dock area. He also agreed to comply with the technical comments within the Board Engineer Report dated July 21, 2023.

23. In response to questions from the Board, Mr. Manilio testified that the railroad access was not active and that it would be the responsibility of the Applicant to press the access into service. He stated that he did not know if the Conrail railroad was active. Mr. Manilio also stated that the existing building was constructed in 1964. He then testified that the type of manufacturing/warehouse operation to be in the building was imported tile distribution.

24. Testimony was next taken from John Merola, who identified himself as a principal of the Applicant and operating manager of Merola Tile. Mr. Merola testified that the Applicant had acquired the subject Property from Belford Lighting in circa 2020. He stated that the Applicant had renovated the existing building with new electrical systems and was now working on making sewer and water connections.

25. Mr. Merola provided a brief history of Merola Tile, which would continue to occupy the building. He stated that Merola Tile was a distributor of imported ceramic tile. He explained that the imported tile would be received from the port, would be repackaged and then distributed to retailers. Mr. Merola testified that the tile company was not a fulfillment distributor. He explained that because of the fragile nature of the tile, employees had to be professional to repackage the product. Mr. Merola further testified that the tile company was seeking to expand the manufacturing



aspect of the tile distribution business at the subject Property by adding tile wet saws to create tile mosaics. He explained that the tile would be cut and attached to a mesh to create the mosaic, then the mosaic pieces would be distributed to retailers. He testified that the water of the wet saws would be reused and there would not be any hazardous material used in the manufacturing.

26. Mr. Merola further testified that a Phase I Environmental Site Assessment had been conducted by a Licensed Site Remediation Professional (LSRP). He stated that the LSRP has issued a Response Action Outcome (RAO) and determined that there were no issues on site. He stated that the LSRP would continue to monitor off-site conditions. Mr. Merola agreed to provide a copy of the RAO.

27. Mr. Merola also stated that trucks would not be stored on-site, with the exception of two (2) trade show trailers that would be stored onsite. He explained that the trade show trailers contained display booths that were used at trade shows to display products. He stated that trade show trailers would be kept within the parking lot, not the loading area.

28. Mr. Merola also explained the operation of loading and unloading. He stated that tractor-trailers would arrive onsite, drop the trailer at the loading dock, then pick up a new trailer. Mr. Merola testified that he expected a maximum of twenty (20) to thirty (30) tractor-trailers daily. He stated that the business would operate between 7 a.m. – 7 p.m., Monday-Friday. However, he stated that most deliveries occurred between 8 a.m. and 5 p.m.

29. In response to questions from the Board Engineer, Mr. Merola testified that the number of employees would be between 125-150, fifty (50) of which were laborers. He stated that there was only one (1) shift. He stated that eighteen (18) loading docks were proposed as part of the addition and that eight (8) loading docks existed as part of the original building. Mr. Merola testified that there would not be a line of tractor-trailers.

30. The Board expressed its concern with tractor-trailers safely accessing the site from Route 33/34 to Tinton Falls Road and exiting to Route 33/34. In response, Mr. Merola stated that he could advise drivers to make a left turn out of the site toward Asbury Road. He stated that he could work out with the customers, such as Home Depot, that use their own drivers, to instruct their drivers to access the site via Asbury Road. He stated that the driveway could also be designed to ensure trucks take a left turn out.

31. In response to further questions from the Board, Mr. Merola testified that the tile company was presently operating at a light capacity. He stated that the site would not just be distribution, but also manufacturing.

32. The Applicant's Traffic Engineer, Matthew Seckler, P.E., PTOE, testified that he had prepared a Traffic Impact Study (TIS) dated May 31, 2023. Mr. Seckler stated that the TIS included trip counts of the surrounding roadways, sight distances, and parking. He stated that the trip counts were collected in April 2023 during the morning and evening peak hours. Mr. Seckler further testified that the number of parking spaces would be sufficient for the number of employees. He explained that the drive aisles and loading area were sufficient to meet the expected use.

33. Mr. Seckler next testified in response to the Board's concern regarding tractor-trailer routes. He stated that it was easier to restrict egress movements than ingress movements. He explained that creating a physical barrier to ingress movements would create issues if the driver comes from the wrong direction. He further explained that the correction to enter the site properly may cause greater issues than the initial approach. Mr. Seckler also testified that modifying the driveway may negatively impact the proposed buffers and may require additional variance relief for the buffers. He then explained that the proposed warehouse/manufacturing was a permitted use, therefore the Governing Body already anticipated tractor-trailer traffic in the area when it zoned the area.

34. Mr. Seckler further testified that twenty (20) to thirty (30) tractor-trailer trips would occur over the course of a twelve (12) hour day, which amounted to only a couple tractor-trailer trips an hour. He stated that there would not be a significant increase in delays from the site. He stated that the proposed traffic complied with the ordinances and was for a proposed use.

35. The Board continued to express its concern with traffic safety issues associated with tractor-trailers. Mr. Miller stated that the Applicant would agree to work with the Board Professionals on making the driveway access safer. He stated that a redesign of the driveway may require additional variance relief for the buffer.

36. The Applicant's Planner, John McDonough, P.P, AICP, testified that the Applicant was proposing to enhance an established business. He stated that the variance relief could be granted under the c(2) criteria and that the Board should consider the proposal as a whole. Mr. McDonough stated that the variance relief for the buffer in the point part of the perimeter could be a hardship variance relief or flexible variance relief. He asserted that the proposals would improve the efficiency of the existing business. Mr. McDonough stated that the building addition complied with all bulk standards. He stated that the Applicant was supplementing the existing buffer. He stated that the design waiver reliefs were reasonable and strict compliance would be impracticable.

37. Mr. McDonough next testified that the proposal would advance purposes of the Municipal Land Use Law (MLUL): a), m), g), and possibly i) with the improved setback of the buffer. Mr. McDonough testified that the grant of variance relief would not result in any substantial detriment to the public good, master plan, or the zone. He stated that shifting traffic to Tinton Falls Road instead of Ruckle Avenue was a positive improvement.

38. In response to questions from the Board Planner, Mr. McDonough stated that the Applicant would work with the Board professionals to ensure that the architecture complied with the

requirements of the Township. He stated that the redesigned architectural plans would be subject to review and approval by the Board Planner.

39. Mr. McDonough identified the following required variance relief:

- a. **Section 188-63A** – Every application for site plan approval on lots of one acre or more shall contain a fifty-foot perimeter buffer of farmland buffer easement, as the case may be. Said buffer areas are required along all lot and street lines separating residential uses from arterial and collector streets, separating a nonresidential use from either a residential use or residential zoning district line or active farmland; whereas the proposed buffer is insufficient to separate the subject application from the residential uses and zones to the west.
- b. **Section 188-63D** – No structure, disturbance, storage of materials or parking of vehicles shall be permitted in a buffer area. Access points from public roadways and utility infrastructure as well as fences along the rear property lines, as the case may be, shall be excluded from this subsection of this section. Utility infrastructure does not include stormwater management facilities. Stormwater retention/detention basins are not permitted within a buffer area; whereas the reconfigured existing parking area is located within the buffer area.
- c. **Section 188-63E** – A required buffer between residential and commercial or industrial project development shall contain a fifty-foot wide, four-season buffer, unless such nonresidential use is preexisting, in which case the residential use shall provide the required buffer. The buffer shall consist of at least two of the following:
  - i. Landscaped, fencing or walls at least 10 feet high.
  - ii. Landscaped berm at least six feet high.
  - iii. A building setback, measured from the buffer line, of at least 200 feet with a grade of less than 20% with groups of plantings and trees located to enhance architectural feature(s) of the structure and offer a break to large open areas, but with no other use permitted in this area.
  - iv. A parking area setback at least 100 feet and screened as required under the off-street parking provisions.

The proposed buffer does not fully conform to the above.

- d. **Section 188-11B** – No accessory structure, with the exception of flag poles, light or signposts, walks, driveways, patios at ground level, mailboxes and septic tanks, shall be erected within any front yard; whereas the masonry pump house is located within the front yard.
- e. **Section 192-18** - No person shall leave, store or place upon any property, for a period in excess of 96 hours, where a business is conducted, any equipment, furniture, furnishings or stock-in-trade that is used, acquired or in any way comes

into the possession or under the control of the person owning or in control of such property, unless the same is within a building or structure, or unless enclosed by a solid fence or wall not less than four feet nor greater than six feet in height, constructed so as to keep out children and trespassers. Such buildings and enclosures shall have solid doors or gates at all openings therein for ingress and egress, and suitable locks shall be maintained on such doors or gates. This section shall not apply to motor vehicles or other type of equipment used in the transportation of persons or property. Whereas the a trade show trailer is proposed to be stored within the parking lot.

40. Mr. McDonough also identified the following required design waiver relief:

- a. **Section 188-22** – Parking lot light levels are to average a maximum of 0.50 footcandles over the entire area; whereas the Applicant has indicated an average of 0.8 footcandles.
- b. **Section 188-106A** – Driveways with widths exceeding 24 feet shall be approved by the Planning Board giving consideration to the width, curbing, traffic flow, radii of curves, and traffic lane divider. The proposed full movement driveway to Tinton Falls Road is 30 feet wide.
- c. **Section 188-106C** – Curbing between vehicular and pedestrian ways shall be designed with periodic curb ramps from the street or parking grade to the sidewalk which shall be no less frequent than one every 65 feet and located in accordance with a pedestrian circulation plan; whereas it appears additional curb ramps are required.
- d. **Section 188-106F(1)(a)** – On industrial and commercial applications, a thirty-foot-wide circulation aisle must be maintained for emergency purposes; whereas the drive aisle to Ruckle Avenue and along the south and east sides of the building are 25 feet wide.
- e. **Section 188-106G** – All areas between the parking and the building shall be landscaped: whereas no landscaping is provided along the loading areas and it is unclear if existing landscaping will remain at the existing building.
- f. **Section 188-106I(4)** – Parking spaces for commercial/industrial uses shall be within 300 feet of the entrance of the building being served; whereas the existing parking spaces proposed to be restriped are located beyond 300 feet from the building.
- g. **Section 188-195A** – All required replacement trees shall be planted on the site from which trees were removed if possible. A waiver from any portion or all of the required on-site replacement may be granted by the approving board and shall be based upon documented practical and physical difficulties and undue hardship related to conditions of the site from which trees are removed. The comments and recommendations of the Board Engineer in consultation with the Certified Tree

Expert, Shade Tree Commission, and Environmental Commission shall be solicited in determining whether a requested waiver is required. The Applicant does not comply with the replacement requirements and should seek a waiver to make contribution to the deposited in the Township Tree Fund, due to limited available planting area.

- h. **Section 188-225G(1)** – All lots shall have private walkway access to a public sidewalk in the right-of-way. All Site Plan applications shall provide public sidewalks along the entire frontage of the subject Property; whereas no sidewalk is existing or proposed along the Tinton Falls Road, nor is a private sidewalk access provided from the right-of-way to the buildings. If the Board grants a waiver from providing sidewalk along the frontage of the property, the Applicant shall be responsible to pay into the Howell Township Sidewalk Trust Fund in the amount of \$3,080.00. (110 LF x 4 FT wide = 440 SF x \$7/SF = \$3,080.00).

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

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

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

#### **I. Variance Relief**

The Board finds that the Applicant has proposed a permitted use in the Zone but does require bulk variance relief. The Municipal Land Use Law, at N.J.S.A. 40:55D-70c provides Boards with

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

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

The Board will address the requests for variance relief collectively. The Board finds that the Applicant has satisfied the positive criteria. The Applicant is operating a

warehouse/manufacturer which is a permitted use and desirable under the Master Plan. The Board finds that the addition to the existing structure will promote public health, safety and welfare, provides sufficient space for commercial and industrial use, and is a more efficient use of land. The Board finds that the above relief advances the goals of planning enumerated at N.J.S.A. 40:55D-2. The Board specifically finds that the Applicant is proposing an aesthetically pleasing ordinance. The design will also facilitate safe and efficient internal circulation. The Board therefore concludes that the goals of planning are being advanced and that the positive criteria has been satisfied.

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

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

## **II. Design Waiver Relief**

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

The Board also finds that the Applicant has proposed a lighting plan which exceeds the permitted average. The Board finds that the Applicant is renovating an existing use with existing



lighting. The Board therefore determines that the Applicant would encounter practicable difficulty in developing the subject Property for its permitted use in the most efficient manner if the strict requirements of the Ordinance were enforced and that design waiver relief pursuant to N.J.S.A. 40:55D-51 is therefore appropriate.

The Board further finds that the Applicant proposes curb ramps at the ADA parking spaces instead of every 65 feet. The Board finds that the Applicant is renovating an existing structure with existing curb ramps and not constructing an entirely new site. The Board therefore determines that the Applicant would encounter practicable difficulty in developing the subject Property for its permitted use in the most efficient manner if the strict requirements of the Ordinance were enforced and that design waiver relief pursuant to N.J.S.A. 40:55D-51 is therefore appropriate.

The Board further finds that the proposed emergency access driveway widths are not thirty (30) feet wide. The Board finds that the Applicant is renovating an existing structure with existing emergency access driveways and not constructing an entirely new site. The Board therefore determines that the Applicant would encounter practicable difficulty in developing the subject Property for its permitted use in the most efficient manner if the strict requirements of the Ordinance were enforced and that design waiver relief pursuant to N.J.S.A. 40:55D-51 is therefore appropriate.

The Board further finds that requiring the landscaping of the beds of the loading docks areas would be futile. This is because such plantings would have little likelihood of survival. This landscaping is also of limited utility considering that it would not be seen by anybody. The Board also finds that the Applicant is renovating an existing structure which does not have sufficient landscape beds at the foundation for satisfactory plantings. The Board therefore finds that the strict applicability of the Ordinance would create practicable difficulties in developing the subject

Property with this permitted use and that design waiver relief pursuant to N.J.S.A. 40:55D-51 is therefore appropriate.

The Board also finds that the proposed parking spaces are further than 300 feet from the entry to the building. The Board finds that the distance is from the existing parking area. The Board finds that the Applicant is renovating an existing structure and not constructing an entirely new site. The Board therefore concludes that the strict application of the Ordinance requirements would result in practicable difficulty in developing the subject Property and that design waiver relief pursuant to N.J.S.A. 40:55D-51 is appropriate.

The Board further finds that the proposed addition is located in a heavily wooded portion of the subject Property and is not capable of being developed without being partially cleared. The Board finds that the Applicant is renovating an existing structure and not constructing an entirely new site. The Board finds that the Applicant has proposed waiver relief to permit an in lieu of financial contribution in this instance. This contribution is appropriate considering the size and shape of the subject Property. Waiver relief pursuant to N.J.S.A. 40:55D-51 is therefore appropriate in this instance.

The Board further finds that the subject Property has unusually short frontages and a long frontage along a State highway bridge approach. The Board finds that providing sidewalks along all frontages would be impracticable. The Board finds that the Applicant has proposed waiver relief to permit an in lieu of financial contribution in this instance. This contribution is appropriate considering the frontages of the subject Property. Waiver relief pursuant to N.J.S.A. 40:55D-51 is therefore appropriate in this instance.

### **III. Site Plan Approval**

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

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board of the Township of Howell on this 14<sup>th</sup> day of December 2023, that the action of the Planning Board taken on September 7, 2023, granting Application No. SP-1107 of NJ Ruckle Realty, LLC, for preliminary and final site plan approval pursuant to N.J.S.A. 40:55D-46 and 50, ancillary variance relief pursuant to N.J.S.A. 40:55D-70c(2) and design waiver relief pursuant to N.J.S.A. 40:55D-51 are hereby memorialized as follows:

The application is granted subject to the following conditions:

1. All site improvement shall take place in the strict compliance with the testimony and with the plans and drawings which have been submitted to the Board with this application, or to be revised.
2. Except where specifically modified by the terms of this Resolution, the Applicant shall comply with all recommendations contained in the Reports of the Board's Professionals.
3. Outside storage shall be prohibited on the subject Property except for the trade show trailer parking.
4. The Applicant shall submit a tree planting plan subject to the review and approval of the Board's Licensed Tree Expert.
5. The Applicant shall provide bollards or other protective devices subject to review and approval by the Board Engineer and Board Planner.
6. The Applicant shall submit the RAO in regard to the Phase I Environmental Site Assessment.

7. The Applicant shall work with the Board Engineer and Board Planner on redesigning the driveway to encourage tractor-trailer routes to use Asbury Road and avoid the intersection of Tinton Falls Road and NJSH Route 33/34.
8. The Applicant shall submit revised architectural plans subject to review and approval by the Board Planner.
9. The Applicant shall execute a Title 39 Agreement with the Township.
10. The Applicant shall be responsible for posting a bond for tree replacement.
11. The Applicant shall make a financial contribution to the Township's Sidewalk Trust Fund.
12. The Applicant shall provide a certificate that taxes are paid to date of approval.
13. Payment of all fees, costs, escrows due and to become due. Any monies are to be paid within twenty (20) days of said request by the Board Secretary.
14. Subject to all other applicable rules, regulations, ordinances and statutes of the Township of Howell, County of Monmouth, State of New Jersey or any other jurisdiction.

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

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Paul Boisvert, Chairman  
Howell Township Planning Board

ON MOTION OF:

SECONDED BY:

ROLL CALL:

YES:

NO:

ABSTAINED:

ABSENT:

DATED:

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Howell Township Planning Board, Monmouth County, New Jersey at a public meeting held on December 14, 2023.

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Eileen Rubano, Secretary  
Howell Township Planning Board

HOWELL TOWNSHIP PLANNING BOARD  
EXHIBITS  
SP-1107 / NJ Ruckle Realty, LLC  
Preliminary and Final Major Site Plan with Ancillary Variance Relief  
June 15, 2023  
August 3, 2023  
September 7, 2023

- A-1 Development application
- A-2 Application Checklist
- A-3 Preliminary and Final Major Site Plan consisting of seventeen (17) sheets prepared by Manterra Design, LLC dated 9/23/22, last revised 5/26/23
- A-4 Boundary, Topographic and Utility Survey consisting of seven (7) sheets prepared by Control Point Associates, Inc. dated 10/19/21, unrevised
- A-5 Architectural Floor Plans and Elevations consisting of four (4) sheets prepared by Redcom Design & Construction, LLC dated 3/23/22, last revised 5/30/23
- A-6 Stormwater Manangement Report prepared by Manterra Design, LLC, dated 9/23/22, last revised 1/18/23
- A-7 Stormwater Operations & Maintenance Manual prepared by Manterra Design, LLC, dated 9/23/22, unrevised.
- A-8 2000 Foot Downstream Drainage Impact Report prepared by Manterra Design, LLC, dated 9/23/22, unrevised.
- A-9 Environmental Impact Report prepared by Manterra Design, LLC, dated 9/23/22, unrevised.
- A-10 National Resource Inventory Report prepared by Manterra Design, LLC, dated 9/23/22, unrevised.
- A-11 Traffic and Parking Assessment Report prepared by Stonefield Engineering and Design, LLC, dated 9/27/22, unrevised.
- A-12 Prior Resolution Case 93-13 dated 2/1/94
- A-13 Prior Resolution Case SP-750 dated 6/20/96
- A-14 Prior Resolution Case SP-505 dated 1/24/84
- A-15 Prior Resolution Case SP-763 dated 5/7/98

- A-16 Traffic Impact Study prepared by Stonefield Engineering and Design, LLC, dated 5/31/23, unrevised.
- A-17 NJDEP Freshwater Wetlands Letter of Interpretation: Line Verification letter dated 9/29/22
- A-18 Aerial Exhibit dated 8/3/23
- A-19 Aerial Overlay dated 8/3/23

#### INTEROFFICE REPORTS

- B-1 Farmers Advisory Committee site plan review dated 10/27/22
- B-2 Fire Bureau site plan review dated 10/28/22
- B-3 Environmental Commission site plan review dated 11/09/22
- B-4 Building Sub-Code Official's site plan review dated 11/03/22
- B-5 Shade Tree Commission site plan review dated 11/16/22
- B-6 Board Engineer's review letter dated 12/3/22
- B-7 Monmouth County Planning Board final approval dated 11/28/22
- B-8 Monmouth County Board of Health site plan review dated 12/5/22
- B-9 Board Planner's review letter dated 12/6/22
- B-10 Freehold Soil Conservation District initial application review dated 12/16/22
- B-11 Groundwater Remedial Action Permit Transfer notice from the NJDEP dated 1/14/23
- B-12 Biennial Certification form for groundwater submitted to the NJDEP dated 1/16/23
- B-13 Freshwater Wetlands application notice to owners dated 1/9/23
- B-14 Shade Tree Commission site plan review dated 3/15/23
- B-15 Board Engineer's completeness memo dated 3/20/23
- B-16 Board Planner's review letter dated 3/20/23

- B-17 Environmental Commission site plan review dated 3/8/23
- B-18 Farmers Advisory Committee site plan review dated 3/23/23
- B-19 Monmouth County Board of Health site plan review dated 4/17/23
- B-20 Freehold Soil Conservation District Review Revisions letter dated 4/27/23
- B-21 Shade Tree Commission site plan review dated 6/21/23
- B-22 Fire Bureau site plan review dated 6/27/23
- B-23 Board Engineer's review letter dated 7/21/23
- B-24 Environmental Commission site plan review dated 6/14/23
- B-25 Monmouth County Board of Health site plan review dated 7/21/23
- B-26 Farmers Advisory Committee site plan review dated 7/27/23



## **NOTICE**

PLEASE TAKE NOTICE THAT ON SEPTEMBER 21, 2023, THE PLANNING BOARD OF THE TOWNSHIP OF HOWELL GRANTED PRELIMINARY AND FINAL SITE PLAN APPROVAL WITH ANCILLARY VARIANCE AND DESIGN WAIVER RELIEF TO NJ RUCKLE REALTY, LLC FOR BLOCK 230, LOT 13.01 AS DEPICTED ON THE TAX MAP OF THE TOWNSHIP OF HOWELL, AND MORE COMMONLY KNOWN AS 10 RUCKLE AVENUE, HOWELL TOWNSHIP, MONMOUTH COUNTY, NEW JERSEY, APPLICATION NUMBER SP-1107 TO PERMIT CONSTRUCTION OF A 137,925 S.F. ADDITION TO AN EXISTING WAREHOUSE BUILDING WITH OFFICE SPACE. MAPS AND ACCOMPANYING DOCUMENTS ARE AVAILABLE FOR REVIEW IN THE OFFICE OF THE PLANNING BOARD, HOWELL TOWNSHIP MUNICIPAL BUILDING, 4567 ROUTE 9 NORTH, HOWELL, NEW JERSEY.

NJ RUCKLE REALTY, LLC