IN THE MATTER OF
APPLICATION NO. PB19-12
OF HARRY MURADI
BLOCK 107 LOT 7

RESOLUTION GRANTING
PRELIMINARY AND FINAL
SITE PLAN APPROVAL
WITH USE AND BULK VARIANCES

WHEREAS, HARRY MURADI, hereinafter the "Applicant", has proposed the development of property located at 11 West Lincoln Avenue, in the Borough of Atlantic Highlands, County of Monmouth, and State of New Jersey which property is further known and designated as Block 107, Lot 7 on the Tax Map of the Borough of Atlantic Highlands; and

WHEREAS, the Applicant has applied to the Planning Board of the Borough of Atlantic Highlands for use variance, bulk variance and preliminary and final major site plan approval to construct a 4-story, mixed-use commercial/residential building containing 2,688 sq. ft. of office/warehouse/storage on the first floor, 2,268 sq. ft. of warehouse/office on the second floor, a 2,756 sq. ft. 3-bedroom apartment on the third floor and a 2,756 sq. ft. 3-bedroom apartment on the fourth floor, contrary to the provisions of Chapter 150 Articles V, VIII & IX Sections 150-29, 150-85, 150-87 & 150-89 respectively of the Development Regulations of the Borough of Atlantic Highlands; and

WHEREAS, the specific relief requested is as follows:

A. Lot area of 6,750sq. ft. where 10,000 sq. ft. are required (Section 150-29) (Exhibit 5-2)
(Existing condition)
B. Lot frontage of 50 ft. where 100 ft. are required (Section 150-29) (Exhibit 5-2) (Existing condition)
C. Lot width of 50 ft. where 100 ft. are required (Section 150-29) (Exhibit 5-2) (Existing condition)
D. Lot shape diameter of 50 ft. where 60 ft. are required (Section 150-29) (Exhibit 5-2) (Existing condition)
E. Lot coverage of 82.8% where 75% is permitted (Section 150-29) (Exhibit 5-2) (95% Existing)
F. Height of 39.67 ft./four stories where 40 ft./three stories is permitted (Section 150-29) (Exhibit 5-2)
G. Mixed-Use light industrial/business/residential use where mixed use with industrial component is not permitted in the CBD Zone District (Section 150-29) (Exhibit 5-4); and

WHEREAS, the application also requires the following design standard waivers:

A. A four (4) foot wide buffer from residential uses where a twenty-five (25) foot wide buffer is required (Section 150-85)
B. No open space provided where 30% open space is required (Section 150-87)
C. Parking spaces located within a front yard area where parking is not permitted in a front yard area (Section 150-89)
D. Failure to provide a loading space (Section 150-89); and

WHEREAS, the subject property is located in the CBD Central Business District Zone which does not permit mixed use buildings containing light industrial uses with residential uses; and

WHEREAS, the Applicant appeared before the Planning Board of the Borough of Atlantic Highlands on January 2, 2020 due notice of said meeting having been given in accordance with New Jersey Statutes, the Open Public Meetings Act and the Municipal Land Use Law and a quorum of the Planning Board being present the application was heard; and

WHEREAS, the Applicant's witnesses were sworn and the Planning Board, having heard the testimony of the Applicant's witnesses and having examined the Exhibits submitted by the Applicant and having considered all of the evidence presented in favor of or in opposition to the application the Planning Board has made the following findings of fact:

1. The Planning Board has received and reviewed the following documents, Exhibits and reports.

   1.1 Zoning review of Zoning Officer Michelle Clark dated September 16, 2019, marked as Exhibit A-1 in evidence.

   1.2 Application for Development of Harry Muradi dated August 28, 2019, marked as Exhibit A-2 in evidence.
1.3 Application for Variance of Harry Muradi dated August 28, 2019, marked as Exhibit A-3 in evidence.

1.4 Architectural Elevation and Floor Plan Drawings prepared by Kevin C. Roy, Architect, consisting of 3 sheets dated August 24, 2019, marked as Exhibit A-4 in evidence.

1.5 Topographic Survey prepared by Lindstrom, Diessner & Carr P.C. dated November 9, 2018, marked as Exhibit A-5 in evidence.

1.6 Preliminary and Final Site Plan prepared by Lindstrom, Diessner & Carr P.C. dated August 27, 2019, marked as Exhibit A-6 in evidence.

1.7 Review #1 of CME Associates dated October 29, 2019, marked as Exhibit A-7 in evidence.

1.8 Amended application for Variance of Harry Muradi dated November 15, 2019, marked as Exhibit A-8 in evidence.

1.9 Amended Application for Development of Harry Muradi dated November 15, 2019, marked as Exhibit A-9 in evidence.

1.10 Elevation drawing prepared by Architect Roy undated, marked as Exhibit A-10 in evidence.

1.11 Upper Floor Plan prepared by Architect Roy undated, marked as Exhibit A-11 in evidence.
1.12 Lower Floor Plan prepared by Architect Roy Roy undated, marked as Exhibit A-12 in evidence.

2. The premises in question are located at 11 West Lincoln Avenue, in the Borough of Atlantic Highlands, County of Monmouth, and State of New Jersey which property is further known and designated as Block 107 Lot 7 on the tax map of the Borough of Atlantic Highlands.

3. The subject property is located in the CBD Central Business District Zone and mixed-use buildings containing commercial and residential uses are a permitted use in the Zone, but light industrial uses are not permitted.

4. The premises in question have approximate dimensions of 50.00 ft x 135.00 ft. x 50.00 ft. x 135.00 ft. and is an elongated rectangle in shape with an approximate area of 6,750 sq. ft. (0.155 acres).

5. The Applicant was represented by Lawrence Kantor, Esq. who presented the testimony of the property owner Harry Muradi, Kevin C. Roy a licensed Architect of the State of New Jersey and Jeffrey J. Carr a licensed Professional Engineer and Professional Planner in the State of New Jersey. They presented evidence that the subject property currently has no structures located upon it and has been historically utilized for storage of boats, equipment and other materials. The property is bordered to the north by West Lincoln Avenue and across the street is a
self-storage facility. The property is bordered to the east by a printing shop, to the south by a cross-fit health club and to the west by a residential dwelling with a detached garage.

6. The Applicant proposes to construct a four story building the first floor which will contain 2,688 sq. ft. of office/warehouse/storage use. The second floor will contain 2,268 sq. ft. of storage/mechanical use. The third and fourth floors will each be occupied by one 2,756 sq. ft. three-bedroom apartment. The site plan also includes six (6) on-site parking spaces, concrete sidewalks, lighting, utility connections and landscaping. The Applicant provided testimony that the first and second stories will be utilized in connection with a fabric warehouse/storage facility with a small office component. The operation requires only two (2) employees. One (1) employee will handle the office functions. The other employee will handle the receipt of fabric to be stored pending its sale at which point they will prepare sold goods for shipment. Delivery of product is by a 20 ft. box container. Deliveries occur only one time during a 2 to 3 month period. Thus the maximum number of deliveries anticipated on an annual basis, assuming deliveries occur during the shorter 2 month period, will be six (6) per year. Those deliveries require approximately 2-3 hours of time for the unloading of the container which is then removed from the site. No sales to patrons are conducted on the premises. Orders are taken principally through the internet, telephone or other remote processes and the fabric goods are shipped from the facility by Fed-Ex, UPS
or similar type box trucks one time per day. The hours of operation of the facility will be Monday through Friday from 9 am to 5 pm. Deliveries and out shipments will be conducted during normal business hours.

7. Board members expressed concern with respect to the turning movements of the delivery container trucks in and out of the facility and the potential for blocking the adjacent road system and the on-site parking spaces for residents of the apartments. The Applicant agreed to provide a turning template demonstrating to the satisfaction of the Planning Board Engineer that there is sufficient space to accommodate the truck turning movements to enter and exit the site. The Applicant also agreed that there will be no "Tractor-Trailer" pick-ups or deliveries and that pick-ups and deliveries will have to be made by trucks of a size contemplated by the approved turning template or smaller. The Applicant also agreed to increase the height of the garage door so that the delivery trucks are able to pull into the building for unloading.

8. The Applicant provided testimony that there will be no commercial trash or recycling stored outside of the building. Trash or recycling Containers for the commercial use will be maintained within the building and placed at the street on trash and recycling collection days. The containers will be the same size as residential trash and recycling containers. The residential trash and recycling containers will be stored along the northeasterly side of the building in the area labeled "Refuse Storage" on sheets 3, 4 & 6 of the site plan.
9. The Applicant provided testimony that all unloading of deliveries, and loading of outgoing sales, will be performed by hand. There will be no forklifts or other mechanical equipment utilized for those purposes. The materials to be stored will be fabric such as linens and there will not be hazardous or highly flammable materials stored at the facility. Nor will there be any fabrication or processing of goods at the site. The entire building will be "sprinklered" for fire suppression purposes.

10. The Applicant provided testimony that signage consists solely of a façade sign identifying a business which will comply with the requirements of the Municipal Ordinance. Lighting on the property will consist of a single parking lot light operating from dusk to dawn which will be properly shielded so as not to flow onto adjoining properties. There will also be security lights at the entrance to each door of the building to be utilized on an "as needed" basis.

11. The Applicant's Engineer reviewed the Planning Boards Engineers review #1 dated October 29, 2019, marked as Exhibit A-7 in evidence, and confirmed that the proposed use will be fully compliant with the performance standard requirements of Section 150-67 of the Ordinance pertaining to, but not limited to, noise, air pollution, waste, radiation, vibration, glare, lighting and illumination. The Applicant's Engineer agreed with the Planning Board Engineer that the number of parking spaces provided satisfy
the requirements of the residential site improvements standards (RSIS) and the Ordinance. He also addressed the concerns regarding the lack of a loading zone for the warehouse use by providing a turning template to insure that truck vehicles will be able to access the site for loading/unloading and increasing the height of the garage door so that delivery vehicles can enter the building to avoid conflict with the vehicles in the parking area. The Applicant's Engineer explained that they would prefer not to provide "wheel stops" for vehicle parking due to their requiring maintenance and interfering with snow plowing operations. The Planning Board agrees that wheel stops should not be required in this case.

12. The Applicant's Engineer also testified that there will be no increase in stormwater runoff from the proposed development. The Applicant agreed to comply with the request to provide roof leader-spout locations with direction of flow to prevent runoff onto adjacent properties. The Applicant also agreed to provide a notation on the site plan regarding the use of porous pavement with a construction detail, soil boring permeability tests and an operations and maintenance manual to ensure that the system functions as intended. The Applicant agreed to comply with the recommendations in the Planning Board Engineers report respecting utility and off-site improvements as well as landscaping and lighting including the use of differing variety of planting species, confirmation that the intensity of lighting level will not exceed 0.5-candles beyond any property line and to provide the required street tree. The Applicant also agreed to
comply with the technical recommendations set forth in the "Construction details" section of the Planning Board Engineers Report.

13. Finally, the Applicant agreed to obtain approvals or letters of no interest from the various regulatory agencies set forth in the Planning Board Engineers Report.

14. With respect to the bulk variances and design standard waivers, the Applicant's Planner presented testimony regarding the justification for granting that relief. More particularly, as set forth previously herein the subject property is an undersized lot and is an elongated rectangle in shape. The property is developed on all sides and can not obtain additional property. Thus, there is a hardship on multiple levels resulting from the lot being an undersized lot for the Zone and being an elongated rectangle in shape. With respect to the variances for lot area, lot frontage, lot width and lot shape diameter these are all pre-existing conditions that cannot be rectified or mitigated. These conditions also create difficulty in complying with the lot coverage requirements of the Zone in order to have a reasonably sized building on the property with on-site parking. It was noted during testimony that Atlantic Highlands does experience difficulty accommodating parking due to many properties being developed without on-site parking. The Planning board finds that it is a "plus" that the subject property is providing its required parking on-site.
15. These factors also make it impossible for the subject property to comply with the design standards respecting a 25 ft. wide buffer strip and providing 30% open space for multi development. The strict application of these provisions would reduce the developable area of the site by at least 50% leaving insufficient space to envelope a reasonably sized building and parking area. This also impacts on the Applicant's ability to provide the required loading spaces. The Planning board is satisfied with the Applicant's presentation that the buffering provided is reasonable under the circumstances presented and that adequate area for loading is provided without requiring a designated loading space. As noted previously herein, the Applicant is accommodating loading area by increasing the height of the garage door and providing a truck turning template to ensure that delivery trucks can adequately access the site and not interfere with on-site parking during these activities.

16. In addition to the foregoing the Planning Board finds that, due to existing development around the perimeter of the subject property, the location of the building to the rear of the property with parking in the front is necessary in order for on-site parking to be accommodated on this parcel. Moreover, placing the building to the rear of the property takes it further from the adjacent residence reducing the impact on it.

17. As a result of the foregoing, the Planning Board finds that the Applicant has satisfied the criteria for the grant of design standard waivers pursuant to N.J.S.A. 40:55
D-51.b. The Planning Board finds that, due to the various site constraints referenced herein, the literal enforcement of these design standards will exact undue hardship upon the Applicant due to the peculiar conditions of the property including it's being undersized and elongated rectangle in shape coupled with the existing developments surrounding this site. The Planning board finds that the design submitted by the Applicant is reasonable and within the general purpose and intent of the site plan requirements of the Ordinance and that the design standard waivers for the requirement for a 25 ft. buffer, 30% open space, parking in a front yard area and not having a required loading space has been satisfied and these waivers are granted.

18. In addition to the foregoing, based upon the factors set forth previously herein, the Planning Board finds that the Applicant has satisfied the positive criteria for the grant of the requested bulk variance relief from lot area, lot frontage, lot width, lot shape diameter and lot coverage. Although noted as a variance in the engineers report the testimony provided during the hearing indicated that the height of the building would be less than the 40 ft. limitation in the Ordinance. Therefore, the proposed building will comply with respect to height and that variance is not required.

19. The Planning Board further finds that the Applicant has satisfied the negative criteria for the grant of the requested bulk variance relief. The Planning Board finds that the grant of the requested variance relief will
not result in any substantial detriment to the public good. The Master Plan and the Zoning Ordinance intent is to provide a reasonable opportunity for property be developed. Without the grant of the requested variance relief the subject property can not be developed. The variances for lot area, lot frontage, lot width and lot shape diameter are all pre-existing conditions and will not be altered as a result of the development of the subject property. With respect to lot coverage, the Planning Board notes that the existing condition is 95% coverage where 75% is permitted. Although variance is required to permit a lot coverage of 82.8% that coverage is less than the existing conditions. Consequently, the proposed development will bring the property more closely into conformity with the Zoning Ordinance. Moreover, the Planning Board agrees with the Applicant's Planning witness that the proposed building and improvements fit with the surrounding neighborhood. The Planning Board further agrees that the proposed use is less intense than many of the permitted uses in the CBD Zone District and will have less impact upon the surrounding properties than a conforming development. The Planning Board further finds that the inclusion of a residential component in this building is consistent with the vision for this Zone District of having mixed use properties with residential components. The Planning Board notes that during the course of the hearing there was discussion as to the proposed units and particularly that they will consist of three bedrooms. In addition, the Applicant agreed to eliminate the proposed rooftop use by the fourth story apartment. The Applicant agreed to eliminate the fourth story apartment deck with staircase to the roof. Instead,
the structure will be enclosed at that point with no roof access from that apartment. The Planning Board further finds that having three bedrooms will permit one of those rooms to be utilized as a “home office” which is a trend due to technology advances that permit many persons to work in their homes remotely from their principle place of employment. Moreover, in this instance, the additional bedroom will not increase the on-site parking requirements for this use.

20. The Planning Board further finds that the grant of the requested bulk variance relief will not result in any substantial impairment of the Zone Plan or Zoning Ordinance. As set forth previously herein, the subject property is contemplated by the Master Plan and the Zoning Ordinance to be developed with uses that include mixed uses. In this Zone the mixed-use including office and residential components are permitted. Although the proposed “warehouse” component of this application has been deemed to be an “industrial” use based upon Exhibit 5-4, the Planning Board finds that the characteristics of this specific proposal will result in an operation that is consistent with the type of uses contemplated for mixed-use commercial/residential development in the CBD Zone District. This shall be set forth more particularly herein in addressing the grant of the use variance relief.

21. As a result of all of the foregoing the Planning Board finds that an extraordinary and exceptional situation uniquely affecting this specific piece of property and the structures lawfully existing thereon exists such that the
strict application of the Development Regulations of the Borough of Atlantic Highlands would result in peculiar and exceptional practical difficulties and exceptional and undue hardship upon the Applicant as it would prevent reasonable development of this parcel. As previously set forth herein the Planning Board also finds that the proposed development will not result in any substantial detriment to the public good or impairment of the Zoning plan and Zoning Ordinance as set forth previously herein.

22. The Planning Board further finds that the Applicant has satisfied the positive criteria for the grant of the requested use variance relief. The Planning Board agrees with the Applicant's planning Consultant that the subject property has unique conditions which make it particularly suited to the proposed mixed-use development. The Planning Board agrees with the testimony of the Applicant's Planner that the permitted commercial uses in the CBD Zone District are unlikely to be developed on the subject property due to its undersized nature and elongated rectangular shape. The Planning Board agrees that banks, restaurants, health clubs, bars and similar permitted uses will be difficult, if not impossible, to create on-site with adequate on-site parking. Moreover, the Planning Board agrees that those uses would attract greater traffic to the site and have more intense impacts upon the surrounding properties.

23. The Planning Board agrees with the Applicant's Planner that the proposed use, as described, is unlike a typical "Amazon" warehouse with an extremely large building
with high traffic volume coming into and out of the facility. The Planning Board agrees that the proposed use is more closely akin to the self storage use, a permitted use in the CBD Zone, that is directly across the street from the subject property. The Planning Board notes that Exhibit 5-2 classifies "warehouse storage or distribution of goods from within completely enclosed buildings" as a "light industrial" use. Nevertheless, it cannot ignore the definitions set forth in the Ordinance which provide that "Commercial Zoning" includes the light industrial Zone and that the definition of "Warehouse" refers to such use as a "commercial activity". Moreover, the Planning Board finds from the evidence presented that the grant of the requested variance will promote the purposes of the Municipal Land Use Law to provide sufficient space in an appropriate location for a variety of agricultural, residential, recreational, commercial and industrial uses pursuant to N.J.S.A. 40:55D-2.g. The Planning Board finds that, in this case, the granting of the use variance will permit an appropriate commercial warehouse use that is less intense than permitted uses in the CBD Zone District. In addition, it will be located on a site where permitted uses are unlikely to be developed due to the site constraints. Moreover, this will be consistent with the Master Plan and Zoning Ordinance recommendation for mixed-use development of this site insofar as it includes an appropriate residential component.

24. The Planning Board further finds that the requested variance relief can be granted without substantial detriment to the public good. The Planning
Board agrees with the Applicant's Planner that the proposed use will harmonize with the surrounding uses in the neighborhood. The Planning Board finds that the proposed use will be consistent with, and harmonize with, the self-storage facility on the opposite side of West Lincoln Avenue as well as the printing shop to the east and the fitness center to the south. In addition, based upon the location of the building to the rear with the open parking area adjacent to the residential use to the west, the proposed use will not have any substantial adverse impacts upon the public good or surrounding the neighborhood.

25. The Planning Board finds that the grant of the requested variance relief will not result in the substantial impairment of the Zone Plan or Zoning Ordinance. As set forth previously herein the Planning Board finds that this proposed mixed-use is consistent with the goals and objectives with the Master Plan and the Zoning Ordinance for mixed-use development in the CBD Zone District. Thus, the Planning Board finds that the Applicant has satisfied the positive and negative criteria for the grant of the requested use variance and that said variance can and should be granted at this time.

26. The Planning Board further finds that the proposed site plan will function in an appropriate manner consistent with the objectives of the Municipal Land Use Law to provide for safe and efficient vehicular and pedestrian circulation, parking and loading and appropriate screening, landscaping and location of structures along with the necessary lighting. The Planning Board finds that
the Applicant has submitted the site plan and such other information as is reasonably necessary to make an informed decision as to whether the requirements necessary for the grant of site plan approval have been met. The Planning Board further finds that, subject to the conditions set forth herein, the detailed drawings, specifications and estimates of the application for final approval conform to the standards established by Ordinance and that the application can and should be approved at this time.

27. The Planning Board further finds that all property owners within 200 ft. of that premises in question were given proper notice of the hearing of this application and were provided with an opportunity to present testimony in favor of or in opposition to the appeal.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Atlantic Highlands on this 6th day of February, 2020 that the Application of HARRY MURADI be and is hereby approved, which approval is expressly conditioned upon compliance with the following terms and conditions:

GENERAL CONDITIONS -

1) This approval is subject to the accuracy and completeness of the submissions, statements, exhibits and other testimony filed with, or offered to, the Board in connection with this application, all of which are
incorporated herein by reference and specifically relied upon by the Board in granting this approval. This condition shall be a continuing condition subsequent which shall be deemed satisfied unless and until the Board determines (on Notice to the Applicant) that a breach hereof has occurred.

2) In the event that any documents require execution in connection with the within approval, such documents will not be released until all of the conditions of this approval have been satisfied unless otherwise expressly noted.

3) No taxes or assessments for local improvements shall be due or delinquent on the subject property.

4) The Applicant shall pay to the municipality any and all sums outstanding for fees incurred by the municipality for services rendered by the municipality's professionals for review of the application for development, review and preparation of documents, inspections of improvement and other purposes authorized by the Municipal Land Use Law. The Applicant shall provide such further escrow deposits with the municipality as are necessary to fund anticipated continuing municipal expenses for such professional services, if any, in connection with the Application for Development as may be authorized by the Municipal Land Use Law.

5) The Applicant shall furnish such Performance Guarantees, Temporary Certificate of Occupancy Guarantees,
Safety and Stabilization Guarantees, Maintenance Guarantees, Inspection Fees and such other Guarantees or fees as may be required pursuant to the Municipal Land Use Law and the Ordinances of this Municipality for the purpose of assuring the installation and maintenance of on-tract/off-tract and private site improvements.

6) No site work shall be commenced or plans signed or released or any work performed with respect to this approval until such time as all conditions of the approval have been satisfied or otherwise waived by the Board.

7) Any and all notes, drawings or other information contained on any approved plans shall be conditions of this approval.

8) Nothing herein shall excuse compliance by the Applicant with any and all other requirements of this municipality or any other governmental entity. This approval is conditioned upon compliance by the Applicant will all Ordinances and Regulations of this Municipality.

9) In the event any de minimis exception has been granted from the Residential Site Improvement Standards Regulations in connection with this application, a copy of this resolution shall be sent to the New Jersey Department of Community Affairs, Division of Codes and Standards, 101 South Board Street, CN 802, Trenton, New Jersey 08625-0802 within thirty (30) days of the date hereof. Said copy of this resolution shall be clearly marked on its face with the words "SITE IMPROVEMENT EXCEPTIONS".
10) In the event that the Applicant and the approving authority have agreed that exceeding a standard of the Residential Site Improvement Standards is desirable under the specific circumstances of the proposed development, such Agreement to Exceed RSIS Standards shall be placed, in writing, by the developer and transmitted forthwith to the New Jersey Department of Community Affairs, Division of Codes and Standards, 101 South Broad Street, CN 802, Trenton, New Jersey 08625-0802.

11) The Applicant shall comply with the contribution requirements of the Municipal Affordable Housing Fund as applicable to this application.

12) In the event that this Application involves a subdivision or site plan, such subdivision or site plan shall expire at the conclusion of the period of protection from zoning changes provided for in N.J.S.A. 40:55D-49 or 40:55D-52.a, as applicable, and in no event shall extend beyond the fifth anniversary of the date of adoption of this resolution.

13) In the event that this approval involves the approval of a subdivision, the Applicant shall provide to the Board Engineer and attorney for review and approval, deeds for each of the lots created and shall file such deeds simultaneously with the recording of any subdivision plat.

14) All special conditions shall be included as notes on the plans.
15) All general and special conditions set forth in this Resolution shall be placed as notes on the approved plans as a Resolution compliance requirement.

16) The Applicant shall comply with the requirements of the Municipal Ordinances with respect to its Affordable Housing obligation by either providing the required affordable housing on-site, providing affordable housing off-site or making a contribution of an Affordable Housing fee pursuant to the applicable Municipal Ordinances. This approval is subject to the Applicant paying all applicable fees, including any fee due and owing to the Municipality’s Affordable Housing Trust Fund.

Affordable units in inclusionary developments shall have at least 50% low income units (of which at least 13% are very low income). The remaining affordable units shall be moderate income units. The bedroom distribution for affordable units shall be a minimum of 20% three-bedroom units and a maximum of 20% one-bedroom units.

17) This Resolution does not constitute a permit for the construction of the approved improvements. The Applicant shall be responsible for obtaining any and all permits and approvals required prior to the commencement of any development activities including, but not limited to, N.J.D.O.T., N.J.D.E.P., Monmouth County Planning Board, Freehold Soil Conservation District, Regional and/or Municipal Utility Authority approval, in addition to any and all building and construction permits, required by the Municipality. All work performed shall be in accordance
with, and shall not deviate from, the approved plans and all applicable Federal, State, County and Local laws, rules and regulations.

18) As an essential and non-severable condition of this approval, the Applicant shall comply with all Mount Laurel obligations and shall comply with the Municipality’s approved Housing Element and Fair Share Plan including but not limited to, any associated implementing Ordinances.

19) The scope of the review of this application is necessarily limited to planning, zoning and land use review of the site as compared to the requirements of the Municipality. The grant of this approval and of any permit or approval in connection therewith shall not constitute a representation, guarantee or warranty of any kind or nature by the Municipality or by any Municipal official or employee thereof with respect to the practicability or safety of any structure, use or other plan proposed and shall create no liability upon or cause of action against the Board, the Municipality or any officials or employees of the Municipality for any damage or injury that result from the construction of the improvements for which this Zoning approval is granted.

SPECIAL CONDITIONS -

The approvals granted in connection with this application are as follows:
1. Preliminary and final site plan approval with the following variances and waivers:
Lot area of 6,750 sq. ft. where 10,000 sq. ft. are required (Section 150-29) (Exhibit 5-2) (Existing condition)

Lot frontage of 50 ft. where 100 ft. are required (Section 150-29) (Exhibit 5-2) (Existing condition)

Lot width of 50 ft. where 100 ft. are required (Section 150-29) (Exhibit 5-2) (Existing condition)

Lot shape diameter of 50 ft. where 60 ft. are required (Section 150-29) (Exhibit 5-2) (Existing condition)

Lot coverage of 82.8% where 75% is permitted (Section 150-29) (Exhibit 5-2) (95% Existing)

Height of 39.67 ft./four stories where 40 ft./three stories is permitted (Section 150-29) (Exhibit 5-2)

Mixed-Use light industrial/business/residential use where mixed use with industrial component is not permitted in the CBD Zone District (Section 150-29) (Exhibit 5-4); and

A four (4) foot wide buffer from residential uses where a twenty-five (25) foot wide buffer is required (Section 150-85)
No open space provided where 30% open space is required (Section 150-87)

Parking spaces located within a front yard area where parking is not permitted in a front yard area (Section 150-89)

Failure to provide a loading space (Section 150-89); and

2. The Applicant shall comply with the technical recommendations set forth in the report of the Planning Board Engineer dated October 29, 2019, marked as Exhibit A-7 including but not limited to:

A. Compliance with the performance standard requirements of Section 150-67 of the Zoning Ordinance.

B. Provide truck turning template demonstrating to the satisfaction of the Planning Board Engineer the largest truck that the site can reasonably accommodate for deliveries and pick-ups. All deliveries and pick-ups shall be limited to trucks of that size or smaller.

C. Vehicles accessing the warehouse for pick-up shall not exceed standard size "box truck" such as those utilized by Fed-Ex and UPS.
D. The building will provide an emergency staircase compliant with commercial standards providing adequate access for a stretcher in the event of emergency.

E. Any roof mounted mechanical equipment shall be screened from street view and comply with the performance standards of Section 150-67 (c).

F. The roof top will not be utilized for other than mechanical equipment.

G. The Applicant will confirm to the Planning Board Engineer’s satisfaction that there will be no increase runoff from the proposed development.

H. The Applicant shall provide roof-leader downspout locations, direction and flow on the plans.

I. The Applicant shall provide a porous pavement construction detail, soil boring permeability tests and operations and maintenance manual to the satisfaction of the Planning Board Engineer.

J. The Applicant will comply with the Planning Board Engineer’s recommendations in its report under “Utility and off-site comments”.

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K. The Applicant shall comply with the Planning Board Engineers comments regarding landscaping and lighting including providing a different variety of planting species, providing building mounting lights at the entry/exit doors, confirming that the intensity of lighting levels shall not exceed 0.5 foot-candles beyond any property lines and providing the required street tree.

L. The Applicant will comply with the Planning Board Engineers comments section on “Construction Details”.

M. The Applicant will comply with the Planning Board Engineers recommendations respecting obtaining approvals or letters of no interest from outside agencies.

N. Container deliveries to the site shall not exceed 1 delivery per 60 days. Deliveries shall be during normal business hours and vehicles shall not exceed the vehicle size provided in the approved turning template. All unloading shall be by hand. There shall be no forklifts or machinery/equipment utilized in the unloading or loading process. Daily pickups of materials being sold from site shall be limited to “box type” vehicles such as are routinely used by Fed-Ex, UPS and similar carriers.

O. There shall be no outdoor storage of materials of any kind or nature, including outdoor storage of trash or
recyclable materials. All commercial trash or recyclable materials shall be maintained indoors and put out only on collection day at curb. All containers shall be standard residential size containers.

P. The hours of operation of the warehouse/storage facility and office shall be Monday through Friday from 9 am to 5 pm.

Q. There shall be no tractor/trailer deliveries or pick-ups at the site.

R. The building shall be sprinklered in its entirety.

S. The garage door height shall be increased to accommodate truck vehicles pulling into the building for delivery and pick-up.

T. The storage warehouse operation shall have a maximum of 2 employees on site at any time.

U. There shall be 2 parking spaces for each of the residential apartment units and there shall be no extra charge above base rent for such parking spaces. The Applicant or Applicant’s successor in interest shall provide written notice of this requirement to each prospective tenant.

V. The Applicant shall provide a new fence along the rear property line.

W. There will be not fabrication or processing of goods on site and there will be no storage or warehousing of
goods containing hazardous materials or highly flammable materials.

X. Any other conditions contained in the body of this resolution and not expressly set forth here.

BE IT FURTHER RESOLVED that nothing herein shall excuse compliance by the Applicant with any and all other requirements of this Municipality or any other governmental entity.

BE IT FURTHER RESOLVED that a written copy of this Resolution, certified by the Secretary of the Planning Board to be a true copy, be forwarded to the Applicant, the Code Enforcement Official of the Borough of Atlantic Highlands, and the Construction Code Official of the Borough of Atlantic Highlands. A written copy of the certified Resolution shall also be filed in the office of the Administrative Officer of the municipality, which copy shall be made available to any interested party and available for public inspection during normal business hours.

BE IT FURTHER RESOLVED that a proper notice of this decision be published once in the official newspaper of the municipality or in a newspaper in general circulation within the Borough.
OFFERED BY: Mr. Neff

SECONDED BY: Mr. Caccamo

ROLL CALL:

YES: Mr. Caccamo, Mr. McGoldrick, Mr. Neff, Mr. Colangelo, Mr. Sonnek-Schmelz

NO: Mr. Hawley, Mrs. Murray

ABSTAIN: None

ABSENT: Mr. Pepe, Mr. Illiano

I certify that the above is a true and exact copy of the Resolution passed by the Planning Board of the Borough of Atlantic Highlands at its meeting held on February 6, 2020.