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Attorneys for Defendant-Intervenor Peron Construction, Inc.

<p>David P. Morrisette and Sandra S. Morrisette, 5 Fairview Heights, Phillipsburg, NJ 08865</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>Town of Phillipsburg Town Council, the governing body of the municipality, with offices at Municipal Building, 120 Filmore Street, Phillipsburg, New Jersey 08865</p> <p style="text-align: center;">Defendant,</p> <p style="text-align: center;">and</p> <p>Peron Construction, Inc.</p> <p style="text-align: center;">Defendant-Intervenor.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: WARREN COUNTY DOCKET NO: WRN-L-000378-24</p> <p style="text-align: center;">CIVIL ACTION</p> <p style="text-align: center;">ANSWER WITH AFFIRMATIVE DEFENSES</p>
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Defendant, Peron Construction, Inc. (“Peron”), says by way of Answer to plaintiffs’, David P. Morrisette and Sandra S. Morrisette, Complaint in Lieu of Prerogative Writs the following:

1. The conclusory nature of this allegation does not warrant a response.
2. Admit.
3. Admit.
4. Admit that a section of Phillipsburg’s website so states.
5. Admit.
6. Admit.

7. Admit that the subject Ordinance was adopted by a 3-2 vote. Denied that there was “significant public opposition”.
8. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.
9. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.
10. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.
11. Denied. The Town Council referred proposed Ordinance 2024-14 to the Phillipsburg Land Use Board for a Master Plan consistency determination.
12. Admit.
13. The allegations of this paragraph contain conclusions of law to which no response is required. Notwithstanding the foregoing, Peron denies the allegations of this paragraph.
14. Admit.
15. Admit.
16. The allegations of this paragraph contain conclusions of law to which no response is required. Notwithstanding the foregoing, Peron denies the allegations of this paragraph.
17. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.
18. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.

19. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.
20. Admit that the Phillipsburg Land Use Board accepted the Consistency Report after an August 22, 2024 public hearing. As to the remainder of this allegation, Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.
21. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.
22. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.
23. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.
24. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.
25. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.
26. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.
27. Admit.
28. Admit that a redevelopment plan for the Riverfront Redevelopment Area was adopted, which has subsequently been amended several times.
29. Admit.

30. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.
31. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.
32. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.
33. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.
34. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.
35. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.
36. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.
37. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.
38. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.
39. The allegations of this paragraph contain conclusions of law to which no response is required. Notwithstanding the foregoing, Peron admits that the Land Use Board approved the 2024 Master Plan Reexamination Report on January 25, 2025 but denies the remainder of the allegations of this paragraph.

Count One – Violations of Due Process

- 40. Peron repeats and incorporates its prior responses as if set forth at length herein.
- 41. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs. However, there is no requirement to provide a copy of a proposed ordinance prior to first reading.

Count Two – Inconsistency with Master Plan

- 42. Peron repeats and incorporates its prior responses as if set forth at length herein.
- 43. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.
- 44. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.
- 45. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.
- 46. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.
- 47. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.
- 48. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.
- 49. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.

Count Three – Inconsistency with Reexamination Report

- 50. Peron repeats and incorporates its prior responses as if set forth at length herein.

51. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.

52. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.

Count Four – Disqualifying Conflicts of Interest

53. Peron repeats and incorporates its prior responses as if set forth at length herein.

54. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.

55. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.

56. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.

57. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.

Count Five – Arbitrary and Capricious Lawmaking

58. Peron repeats and incorporates its prior responses as if set forth at length herein.

59. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.

60. Peron neither admits nor denies the allegations of this paragraph and leaves the Plaintiffs to their proofs.

WHEREFORE, Defendant-Intervenor Peron Construction, Inc. demands judgment against Plaintiffs, dismissing the Complaint with prejudice and awarding attorney's fees and costs to Peron Construction, Inc., and such further relief as this Court may deem just and reasonable.

AFFIRMATIVE DEFENSES

1. The Complaint fails to state any cause of action upon which relief can be granted.
2. Plaintiff has failed to exhaust administrative remedies.
3. The Complaint is barred by the applicable Statute of Limitations.
4. Phillipsburg properly followed the provisions of the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.
5. Phillipsburg properly followed the provisions of the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq.
6. Phillipsburg properly followed the provisions of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.
7. Phillipsburg properly followed the provisions of N.J.S.A. 40:49-2.
8. Phillipsburg's actions were not arbitrary, capricious, or unreasonable.
9. The Complaint violates the Entire Controversy Doctrine.

RESERVATION OF RIGHTS TO ADD AFFIRMATIVE DEFENSES

Defendants reserve the right to amend their Answer to Plaintiffs' Complaint to assert such additional affirmative defenses as may become apparent during the continuing course of discovery in this matter.

DESIGNATION OF TRIAL COUNSEL PURSUANT TO RULE 4:35-4

Mark R. Peck, Esq. is designated as trial counsel in this matter.

RULE 4:5-1 CERTIFICATION

Pursuant to Rule 4:5-1, I hereby certify that, to the best of my knowledge and information, the matter in controversy is not the subject of any other pending action or arbitration proceeding and no other proceedings are contemplated. At the present, I do not know of any other party who

should be joined in this action. This Certification is made subject to further investigation and discovery.

RULE 1:38 CERTIFICATION

I certify that personal identifiers, if any, have been redacted from documents now submitted to the Court, and will be redacted from all documents submitted in the future in accordance with the Rules of Court.

**FLORIO PERRUCCI STEINHARDT
CAPPELLI & TIPTON, LLC.**

Attorneys for Defendant-Intervenor, Peron
Construction, Inc.

/s/ Mark R. Peck

Dated: 3/10/25

Mark R. Peck, Esq.



New Jersey Judiciary
Civil Practice Division

Civil Case Information Statement (CIS)

Use for initial Law Division Civil Part pleadings (not motions) under Rule 4:5-1. Pleading will be rejected for filing, under Rule 1:5-6(c), if information above the black bar is not completed, or attorney's signature is not affixed.

For Use by Clerk's Office Only

Payment type <input type="checkbox"/> check <input type="checkbox"/> charge <input type="checkbox"/> cash	Charge/Check Number	Amount \$	Overpayment \$	Batch Number
Attorney/Pro Se Name Mark R. Peck, Esq.		Telephone Number (610) 691-7900 ext.		County of Venue Warren
Firm Name (if applicable) Florio Perrucci Steinhardt Cappelli & Tipton, LLC			Docket Number (when available) L-378-24	
Office Address - Street 91 Larry Holmes Dr, Suite 200		City Easton	State PA	Zip 18042
Document Type Answer with Affirmative Defenses			Jury Demand <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Name of Party (e.g., John Doe, Plaintiff) Peron Construction, Inc.		Caption Morrisette v. Town of Phillipsburg, et al.		
Case Type Number (See page 3 for listing) <u>701</u>				
Are sexual abuse claims alleged?			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Does this case involve claims related to COVID-19?			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Is this a professional malpractice case? If "Yes," see N.J.S.A. 2A:53A-27 and applicable case law regarding your obligation to file an affidavit of merit.			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Related Cases Pending? If "Yes," list docket numbers			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Do you anticipate adding any parties (arising out of same transaction or occurrence)?			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Name of defendant's primary insurance company (if known)			<input type="checkbox"/> None <input checked="" type="checkbox"/> Unknown	

The Information Provided on This Form Cannot be Introduced into Evidence.

Case Characteristics for Purposes of Determining if Case is Appropriate for Mediation

Do parties have a current, past or recurrent relationship? ☐ Yes ☒ No

If "Yes," is that relationship:

☐ Employer/Employee ☐ Friend/Neighbor ☐ Familial ☐ Business
☐ Other (explain) _____

Does the statute governing this case provide for payment of fees by the losing party? ☐ Yes ☐ No

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition.



Do you or your client need any disability accommodations? ☐ Yes ☒ No

If yes, please identify the requested accommodation:

Will an interpreter be needed? ☐ Yes ☒ No

If yes, for what language?

I certify that confidential personal identifiers have been redacted from documents now submitted to the court and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

Attorney/Self-Represented Litigant Signature: Mark R. Peck

Civil Case Information Statement (CIS)

Use for initial pleadings (not motions) under *Rule* 4:5-1

CASE TYPES

(Choose one and enter number of case type in appropriate space on page 1.)

Track I - 150 days discovery

- 151 Name Change
- 175 Forfeiture
- 302 Tenancy
- 399 Real Property (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 Book Account (debt collection matters only)
- 505 Other Insurance Claim (including declaratory judgment actions)
- 506 PIP Coverage
- 510 UM or UIM Claim (coverage issues only)
- 511 Action on Negotiable Instrument
- 512 Lemon Law
- 801 Summary Action
- 802 Open Public Records Act (summary action)
- 999 Other (briefly describe nature of action)

Track II - 300 days discovery

- 305 Construction
- 509 Employment (other than Conscientious Employees Protection Act (CEPA) or Law Against Discrimination (LAD))
- 599 Contract/Commercial Transaction
- 603N Auto Negligence – Personal Injury (non-verbal threshold)
- 603Y Auto Negligence – Personal Injury (verbal threshold)
- 605 Personal Injury
- 610 Auto Negligence – Property Damage
- 621 UM or UIM Claim (includes bodily injury)
- 699 Tort – Other

Track III - 450 days discovery

- 005 Civil Rights
- 301 Condemnation
- 602 Assault and Battery
- 604 Medical Malpractice
- 606 Product Liability
- 607 Professional Malpractice
- 608 Toxic Tort
- 609 Defamation
- 616 Whistleblower / Conscientious Employee Protection Act (CEPA) Cases
- 617 Inverse Condemnation
- 618 Law Against Discrimination (LAD) Cases

Track IV - Active Case Management by Individual Judge / 450 days discovery

156 Environmental/Environmental Coverage Litigation
 303 Mt. Laurel
 508 Complex Commercial
 513 Complex Construction
 514 Insurance Fraud
 620 False Claims Act
 701 Actions in Lieu of Prerogative Writs

Multicounty Litigation (Track IV)

282 Fosamax
 291 Pelvic Mesh/Gynecare
 292 Pelvic Mesh/Bard
 293 DePuy ASR Hip Implant Litigation
 296 Stryker Rejuvenate/ABG II Modular Hip Stem Components
 300 Talc-Based Body Powders
 601 Asbestos
 624 Stryker LFIT CoCr V40 Femoral Heads
 626 Abilify
 627 Physiomesh Flexible Composite Mesh
 628 Taxotere/Docetaxel
 629 Zostavax
 630 Proceed Mesh/Patch
 631 Proton-Pump Inhibitors
 633 Prolene Hernia System Mesh
 634 Allergan Biocell Textured Breast Implants
 635 Tasigna
 636 Strattice Hernia Mesh
 637 Singulair
 638 Elmiron
 639 Pinnacle Metal-on-Metal (MoM) Hip Implants

If you believe this case requires a track other than that provided above, please indicate the reason on page 1, in the space under “Case Characteristics”.

Please check off each applicable category

☐ **Putative Class Action** ☐ **Title 59** ☐ **Consumer Fraud**
☐ **Medical Debt Claim**

Civil Case Information Statement

Case Details: WARREN | Civil Part Docket# L-000378-24

Case Caption: MORRISETTE VS PHILLIPSBURG TOWN COUNCIL *ALL*

Case Initiation Date: 10/29/2024

Attorney Name: MARK RENART PECK

Firm Name: FLORIO PERRUCCI STEINHARDT CAPPELLI & TIPTON, LLC

Address: 91 LARRY HOLMES DR STE 200
EASTON PA 18042

Phone: 6106917900

Name of Party: null : PERON CONSTRUCTION, INC.

Name of Defendant's Primary Insurance Company
(if known): None

Case Type: ACTIONS IN LIEU OF PREROGATIVE WRITS

Document Type: Answer

Jury Demand: NONE

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Does this case involve claims related to COVID-19? NO

Are sexual abuse claims alleged by: DAVID P MORRISETTE? NO

Are sexual abuse claims alleged by: SANDRA S MORRISETTE?
NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO **Title 59?** NO **Consumer Fraud?** NO
Medical Debt Claim? NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule* 1:38-7(b)

03/10/2025
Dated

/s/ MARK RENART PECK
Signed