

**BOROUGH OF HAWTHORNE
PLANNING BOARD**

**RESOLUTION GRANTING PRELIMINARY AND FINAL SITE PLAN APPROVAL
FOR PREMISES KNOWN AS BLOCK 89, LOT 6 and BLOCK 90, LOTS 1, 2.01, and
2.02, KNOWN AS 542 GOFFLE ROAD , BOROUGH OF HAWTHORNE,
COUNTY OF PASSAIC, STATE OF NEW JERSEY**

WHEREAS, an application has been submitted to the Borough of Hawthorne Planning Board by SPGM Hawthorne, LLC for site plan approval for the premises known as Block 89, Lot 6 and Block 90, Lots 1, 2.01 and 2.02 on the current tax assessment map of the Borough of Hawthorne, also known as 542 Goffle Rd.; and

WHEREAS, the proposed development is a result of a settlement agreement between the Borough of Hawthorne and 3 Ronson, LLC in connection with the Borough's Mount Laurel Declaratory Judgment Action captioned "In the matter of the Application of the Borough of Hawthorne," bearing Docket No. PAS-L-2412-15 regarding the Borough's constitutional obligation to provide for affordable housing units as part of the Council on Affordable Housing Third Round; and

WHEREAS, such settlement provided that the Borough was to investigate the properties for designation as a Redevelopment Area pursuant to the Local Redevelopment and Housing Law, NJSA 40A:12A; and

WHEREAS, the Borough Council authorized the Planning Board to conduct such investigation; and

WHEREAS, the Planning Board conducted a public hearing on November 10, 2020 and concluded with the recommendation to the Borough Council that the subject property be designated as an area in need of redevelopment; and

WHEREAS, the Borough Council adopted a resolution designated the site as an area in need of redevelopment; and

WHEREAS, the Borough Council prepared and adopted a redevelopment plan and amendment to the zoning ordinance, which established the R-12-R Multifamily Affordable Housing Redevelopment Zone; and

WHEREAS, this Application is made pursuant to the above; and

WHEREAS, public hearings of the Planning Board were held on Tuesday, February 15, 2022, May 3, 2022 and June 7, 2022 (in which due notice was given) and during which the Planning Board heard testimony by the applicant and its consultants, representatives, and experts, and the Planning Board reviewed and considered all correspondence, maps, plats, reports and public input, if any, on the application, as well as a presentation by the applicant's attorney, Donna Jennings, Esq., together with all exhibits submitted as evidence; and

WHEREAS, along with the application, the applicant submitted the following:

Engineering drawings Prepared by Jarmel Kizel, with an original date of August 17, 2021, with a final revision date of May 26, 2022, consisting of 25 pages.

Architectural drawings prepared by Jarmel Kizel, with an original date of April 6, 2022, with a final revision date of May 26, 2022.

WHEREAS, during the public hearing the following was introduced by the applicant as exhibits:

A-1 Arial photograph of the property dated February 10, 2022, identified as drawing E-100.

A-2 Site Exhibit dated February 10, 2022 prepared by Jarmel Kizel.

A-3 Utilities Plan dated February 10, 2022 prepared by Jarmel Kizel identified as drawing E-300.

A-4 Colored Rendering of building view of Building A dated February 15, 2022

A-5 Colored Rendering of view of Building B dated February 15, 2022.

A-6 Colored Rendering of Landscape Plan identified as Drawing C-600.

A-7 Arial photograph of Property identified as drawing E-150.

A-8 Colored Rendering of view of Building A identified as drawing SB-101.

A-9 Colored Rendering of view of Building B identified as drawing SD-102.

A-10 Drawing – Partial site section of Building C.

WHEREAS, the Board received and considered the following reports from the Board professionals (“Board Reports”):

1. Letters and memorandums from the Board engineer, Boswell Engineering as follows:
 - a. Reports from Michael J. Kelly, P.E. dated November 19, 2021, February 9, 2022, April 26, 2022, and June 3, 2022;
 - b. Memorandums dated February 9, 2022, April 28, 2022, and June 3, 2022, from Alvaro Gonzalez, Ph.D., P.E.:
 - c. Memorandum dated December 17, 2021, from Frank D. Dobiszewski, P.E.;

d. Memorandums dated October 27, 2021, and June 7, 2022, from Marisa Tiberi, P.E.;

2. Memorandums dated February 9, 2022, and June 4, 2022, from John P. Szabo, P.P. of Burgis Associates, Inc., the Board planning consultant.

WHEREAS, the Planning Board also considered the following documents:

1. Inter-office memorandums from the Hawthorne Fire Department dated December 26, 2021 and January 20, 2022;

2. Inter-office memorandum from the Hawthorne Police Department, Traffic Bureau dated December 16, 2021;

Testimony

WHEREAS, The Planning Board heard testimony from the applicant's representatives as follows:

Donna Jennings, Esq. represented the Applicant. She advised the Board that the application was made pursuant to the above referenced settlement and zoning ordinance amendment and that it was the intent of the applicant to present an application without variances. The number of proposed total units and the number of affordable housing units will comply with the requirements of the zoning ordinance.

Gerard Gesario, P.E. was accepted by the Board as an expert in the field of engineering. Mr. Gesario testified at the February 15, 2022, May 3, 2022, and June 7, 2022, hearings. At the February 15th hearing, he generally described the current condition of the property. The property is 6.037 acres and contains steep slopes. He described the proposed development of three buildings, each containing 3 stories over one parking level. There is a single, full-movement driveway off of Goffle Road for access, with an emergency access to Lynack Road. The Lynack Road access cannot be a main access because of the topography and the narrowness of Lynack Road.

All drive aisles in the development meet the 24-foot minimum width requirement. There is a 28-foot width in the aisles between Buildings A and B because it is the steepest slope section of the property. The Residential Site Improvement Standards (RSIS) require 231 parking spaces, which are provided. 106 of those spaces are located in the three covered garages. At the May, 2022 hearing, the plans were amended to provide for electric charging stations that are required by statute. The inclusion of the charging stations permits a 10% reduction in the number of parking spaces required so the number of parking spaces is amended to 206. He noted that the RSIS requires 6-foot-wide sidewalks where only 4-foot-wide sidewalks are proposed. Providing 6-foot sidewalks would increase the impervious coverage. This is a de minimus exception which requires a RSIS waiver. The Board engineer advised that the 4-foot sidewalks meet ADA requirements, and he does not object to the RSIS waiver. Mr. Gesario testified that all other ADA requirements have been met except as may be impractical because of topography. There are some areas where there is in excess of the 5 percent slope permitted by the ADA. To be

compliant would require excessive walls. The Board engineer advised that there is no formal waiver request for ADA variations. The applicant agreed to provide a Technically Infeasibility Certification to the Borough with respect to noncompliance with the ADA.

He described the height of the various walls, landscaping and the stormwater design. The Board noted that there is a stormwater basin located in the front of the property along Goffle Road and questioned whether this permitted the development to meet the buffering requirements in that area. The Board also questioned whether the landscaping requirements were met with respect to the screening in front of the walls and questioned that the height of some of the walls exceeded the limitations of the zoning ordinance. In response to these comments, the plans were revised and presented at the subsequent hearings, which plans eliminated the stormwater basin, allowing for the buffer to be supplemented along Goffle Road to meet the requirements of the ordinance. The applicant amended its' stormwater management system to include below grad systems on site. At the February 15th and May 3rd hearings, Mr. Gesario reviewed and discussed the comments from the Board Reports related to potential variance conditions related to landscaping, wall height and buffer requirements. At the June 7th hearing, Mr. Gesario testified that all items had been addressed, and the issues raised by the Board engineer in its June 3rd report, specifically the potential variance conditions noted in number 13 of that report, could be addressed so that no variances would be required and agreed that that would be a condition of any approval. A Stormwater Management Report was submitted and reviewed by the Board engineer and comments provided in the Board Reports. The development is considered a Major Development as defined by the NJDEP. The plan and the designed system meet the required reductions in the rate of runoff pursuant to the Borough's code and the State requirements. The Board engineer confirmed but noted comments in the Board Reports. The applicant indicated that it would comply with the comments.

He testified with regard to the number of trees currently onsite, the number that would be removed and the number that would be added. He noted that there are a number of dead trees that will be removed. In response to a concern from the Board engineer and Board members that trees not be removed unnecessarily, the applicant agreed that the applicant would meet with the Borough tree expert on site to confirm which trees would be removed and which would remain.

The Board engineer had requested in the November 19, 2021, report that the applicant assess whether the existing sanitary pipe maximum capacity will be exceeded by the proposed development sanitary peak flow. Mr. Gesario testified that the applicant had conducted a flow test at the sanitary sewer line in Goffle Road and determined there was sufficient capacity in the pipe located in Goffle Road to meet the requirements of this development. The applicant agreed and did conduct a video review of the sanitary sewer line per the procedures established by the Board engineer. The Board engineer reported that there was no major issues revealed by this test. However, the Board engineer advised the Board that this did not address the capacity of the system further down the line, at Diamond Bridge Avenue and beyond and recommended testing of that line. After some discussion, the applicant agreed to fund the test and analysis done by the Borough up to the amount of \$14,000.00, which amount would be placed in escrow.

In the drawings prepared and submitted for the hearing on May 3rd, he testified that other improvements had been made in response to the Board's concerns and comments. The size of

the island at the entrance had been reduced and the applicant had flattened the slope of the roadway to meet RSIS standards. The roadway behind building C had been eliminated which permitted the walls in that area to be lower and further from the common property line. The roadway along the south side of the property was eliminated and replaced with pavers, which area will be for maintenance only. He noted that the development would meet all of the lighting requirements in the zoning ordinance and the Board engineer's report. He agreed that the color of the retaining walls would be earth tone and the applicant would add additional fire hydrants as requested by the fire official.

Frederick Kincaid, R.A. was accepted by the Board as an expert in the field of architecture. He testified at the February hearing as to the layout of the three buildings. There will be four three-bedroom units, 98 two-bedroom units, and 15 one-bedroom units. He introduced Exhibits A-4 and A-5, which are colored renderings of Building A and Building B. He reviewed the floor plans of the building. There will be a trash room in each building which will be serviced by the owner. Trash will be removed from the rooms to dumpsters periodically. There is a fitness room in each building, which is handicapped accessible. There will also be other amenity rooms such as a lounge, mail room and meeting room available to the tenants. The affordable housing units are spread throughout the buildings and floors.

He described the roof of the building as a pitched roof. In response to comments from the Board, the plans were revised for the May hearing to provide for a flat roof to lower the height of the buildings. The general consensus of the Board at the May hearing was that the pitched roof was aesthetically more desirable, and the final drawings were revised to provide for a pitched roof. All of the air conditioning equipment for the common areas will be located within the roof.

Matthew Jarmel, R.A. was accepted as an expert in the field of architecture. He worked with Mr. Kincaid on the project. He testified at the May and June hearings. At the May hearing, he described changes made to the architectural plans. The numbers of units have been reduced from 117 units to 116 units. The number of units in Building C has been reduced from 45 units to 42 units, and the number of units in Buildings A and B have been increased from 36 units to 37 units. There has been no change in the size of the building. In addition, the plans have been revised to show all of the amenity spaces such as the fitness room and meeting rooms are located in Building C.

In reviewing the elevation drawings, he noted that because of the slope of the property, only three floors of the buildings would be visible from the west side, while four floors, including the parking level, would be visible from the east. Emergency vehicles would access the building from the main entrance area of each building. In response to inquiries from Board members, he testified that most emergency vehicles would not be able to fit in the garage because of the height of the access door, but he felt that access from the on-grade, main entrance, which led directly into the lobby and to the elevators, would be a better alternative than access from the parking level. The elevators are of sufficient size to allow emergency equipment and stretchers.

Each unit will have an individual HVAC unit which will be located inside the unit and

vent to the outside. The noise from such units will be below state standards. HVAC units for common areas will be within the roof area. In response to inquiry from the Board members, he agreed that the rollup gate for the parking area will be tied into the building alarm system so that it will go up when the alarm went off for emergency access.

At the June 7th hearing he introduced the architectural drawings with the original pitched roof. He indicated that all building siding would be of the same material. In response to a comment from a Board member, he acknowledged that Drawing 202 and Drawing 200 did not match with respect to the siding noted. He agreed that Drawing 202 was accurate with respect to the building elements and all buildings would match. He also acknowledged the Board member comments that the gables shown on Drawing 200 were different than shown on drawing 202 and confirmed that all buildings would match the gables shown on Drawing 200. In response to a comment from the Board engineer, he agreed that the applicant would provide building height calculations and diagrams to confirm the building height.

In a follow up to discussions from previous meetings, the buildings will be equipped with a full 13-fire sprinkler system.

Elizabeth Dolan, P.E. was accepted by the Board as an expert traffic engineer. She described the studies taken for the traffic counts for the project. Traffic counts were taken at the intersection of Goffle Road and Warburton Avenue during the peak commuting periods in the morning and evening. A growth rate from the Institute of Transportation Engineers (ITE) was added to allow for future traffic count. The study showed that currently at the intersection, there was some delay at peak periods from Warburton onto Goffle. Adding the expected traffic from the development would not be significant as it would only increase the delay by 2 or 3 seconds per vehicle. The level of service anticipated at the new driveway for the development would provide acceptable levels of service according to the ITE and would not significantly increase the traffic on Goffle Road. Based on the studies, her conclusion is that there is no negative impact on the roadway system.

Based on the report from the Police Department, she considered a crash analysis in the area. She reviewed five years' worth of accident reports from the Hawthorne Police Department. There were eleven crashes in the immediate area, with seven being at the intersection of Warburton Avenue, one at the intersection with Lynack Road, and three at Brockhuizen Lane. She concluded that the proposed driveway will not increase the accident exposure, given the amount and type of accidents.

Board members expressed concern that based on their knowledge of the volume of traffic on Goffle Road, comments from the public concerning the volume of traffic on Goffle Road and the fact that the study only measured the traffic on one day and the afternoon counts taken between 4 and 5 PM may not take into account the traffic from the high school end of day. The Board indicated concern that left hand turns into and out of the development would cause back-ups on Goffle Road in general and at the Warburton intersection specifically. Ms. Dolan did not feel a left-turn restriction either into the development or out of the development was necessary. She felt such a restriction would result in U-turn movements to access or leave the development, which would be more of a problem. She noted that the driveway was designed in accordance

with comments with the county engineers. The applicant's attorney advised the Board that the applicant had discussed such restrictions with the County during preliminary discussions but had not received a response or any direction either way. The Board attorney advised the Board that such determination was under the jurisdiction of the County Planning Board. The Board directed the Board attorney to direct correspondence to the County Planning Board advising that the Board recommends restricting left turn in and out of the development.

Public Comment and Questions

WHEREAS, the matter was open to the public for questions after the testimony of each witness. There were a number of members of the public that appeared to question the witnesses concerning buffers, wall height, lighting along the emergency access road and traffic. A number questioned the traffic engineer's conclusion that the development would not negatively effect the traffic on Goffle Road and the Warburton Avenue intersection. At the conclusion of the hearings the matter was opened for comments and no one appeared with any objection.

Findings of Fact and Conclusions of Law

WHEREAS, the Planning Board makes the following findings of fact/conclusions of law:

1. The property is located in the R-12-R Multifamily Affordable Housing Redevelopment Zone, which zone was created as a result of the settlement as described herein. The application conforms to all of the requirements of the zone, and there are no variances required. Specifically, the applicant proposes 116 total units with 17 affordable housing units, which affordable housing units are disbursed throughout the three proposed buildings. This is in compliance with the Zoning Ordinance and the Settlement Agreement.
2. The Board notes that comment No. 13 in the report from the Board engineer dated June 3, 2022, indicates several potential variance conditions. The applicant has confirmed that it will be able to meet all of those requirements such that no variance is required. This approval will be conditioned upon meeting those conditions.
3. The Board recognizes the unusual topography of the property, particularly the steep slope, as an inherent issue in developing the property. The applicant has presented a plan that will conform to all of the requirements of the zoning ordinance and has addressed the engineering concerns of the Board and the Board engineer in the construction of the stepped-wall system and the intent of the ordinance to limit the size of the walls and to provide sufficient buffering and landscaping, in accordance with the requirements of the Zoning Ordinance.
4. The applicant has presented a stormwater management report and designed a stormwater system which meets the requirements of the reduction in the rate of runoff in accordance with the Borough code and State regulations which has been reviewed and approved by the Board engineer subject to the comments contained in the Board Reports.
5. The applicant presented testimony from a traffic engineer who performed the traffic study. The Board recognizes that it does not have jurisdiction over the volume of the

traffic created by this development as it is a permitted use and does not have jurisdiction over the traffic issues related to Goffle Road which is a county road. Notwithstanding the expert's conclusion that the ingress and egress does not require any left turn in-or-out restrictions, the experience of the Board members and considering the testimony of the public raise a significant concern that the volume of traffic on Goffle Road as it exists is significant, and the Board is not convinced that allowing left turns into and out of the site will not create traffic issues on Goffle Road and at the intersection of Warburton Avenue. Therefore, the Board instructed the Board attorney to provide correspondence to the County Planning Board recommending such restrictions.

6. The applicant has provided a flow test for the sanitary sewer line in Goffle Road which indicates that that sewer line can handle the output from the development. However, the Board engineer had recommended in the Board Reports that testing be done to demonstrate that the output can be handled by the sanitary surge system further down in the system near Diamond Bridge Avenue and past that point where other sewer lines converge. The Board recognizes that it cannot require the applicant to make improvements to the municipal system if the system is not adequate to handle the increased flow created by the development but feels that it is necessary to make that determination prior to construction. The applicant has agreed that rather than performing the additional flow test, the applicant will reimburse the Borough for the cost of this flow test up to the amount of \$14,000.00. The Board engineer has estimated that the cost will be somewhat less than that amount. Based on that agreement, the Bboard is comfortable in approving the development with that payment as a condition.

7. The plans presented provide sufficient access for fire and other emergency vehicles. The access through the main entrance near the elevator for medical professionals and the size of the elevator are satisfactory. As the applicant has agreed to tie in the overhead doors for the parking garage to the alarm system, emergency personnel will have access when required.

8. The applicant has presented an application for development that conforms to the Zoning Ordinance subject to applicant meeting the conditions cited herein and has responded to suggestions and comments from the Board and the Board engineer and has agreed to address the comments in the Board Reports.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board that based upon the above findings of fact and conclusions of law that the application of SPGM Hawthorne, LLC for preliminary and final site plan approval for those premises known as Block 89, Lot 6 and Block 90, Lots 1, 2.01 and 2.02 in accordance with the plans and exhibits is hereby granted; and

BE IT FURTHER RESOLVED that the approvals set forth above are subject to the following conditions:

1. The Applicant must satisfactorily address all comments and recommendations contained in the Board Reports.

2. Specifically, the Applicant must address item numbers 13 a-d of the June 3, 2022, Michael J. Kelly, P.E. report so as to avoid any variance to the Zoning Ordinance as Applicant represented could be accomplished.
3. ADA Compliant Design and Construction Certifications must be provided for pedestrian facilities within the public right-of-way and must be submitted to the Borough.
4. Applicant must provide Technical Infeasibility Certifications where ADA requirements cannot be met.
5. All roads to be private and maintained by owner.
6. Property Owner to maintain all site improvements including retaining walls, landscaping, drainage facilities and detention basins.
7. Trash and recycling will be handled by a private hauler at the expense of the Applicant/Owner.
8. Exterior trash areas will be enclosed on all sides and will be split face block matching the block on buildings.
9. The Emergency Access Road will be signed, gated with a lock and lighted. The Borough emergency departments will be provided with an access key.
10. Applicant will satisfactorily address all of the landscaping comments noted in Board Reports, specifically the June 7, 2022, memorandum from Marisa Tiberi, P.E. and the June 4, 2022, memorandum from John P. Szabo, P.P..
11. All landscaped areas will be serviced by an irrigation system.
12. Balconies will be provided on the east sides of the three buildings only.
13. No BBQs, either gas or electric, to be permitted on balconies.
14. Prior to tree removal, the Applicant's tree removal contractor, the Applicant's representative, Boswell Engineering and the Borough's tree expert must meet in the field to review and agree on the tree removal prior to the removal of any trees. Such meetings may be held periodically as necessary.
15. Parking Spaces in the garages will be designated and assigned to units.
16. Written easements will be provided for drainage facilities and the form of easement shall be submitted for the review and approval of the Board engineer and attorney.
17. Applicant will install a Knox box for EACH garage and provide access to the Borough's emergency personnel.

18. The garages doors will be tied into the fire alarm system to automatically open when THE fire alarm goes off.
19. One additional hydrant will be provided in vicinity of station 17+50 as shown on the Plans.
20. Applicant will modify curb line in the vicinity of station 14+50 on the Plans to provide a larger driveway opening for fire access.
21. A Fire Zone Striping Plan will be submitted to the Fire Department for their review and approval.
22. Parking spaces are not to be obstructed by piling up of snow during snow removal.
23. All retaining walls constructed on-site will require a certification by a licensed engineer that the engineer has provided on-site inspection during wall construction, that proper methods were utilized in the construction, the wall has been constructed in accordance with the approved designed drawings, the wall has been properly stabilized and the wall will prove adequate for the intended purpose. The certification is to be provided by the Applicant's Engineer and is to be provided to the Borough upon completion.
24. The Developer must pay the Borough the water and sewer connection fees as set forth in the Settlement Agreement.
25. Applicant's engineer or architect will provide building height calculations along with detail.
26. Applicant consents to Title 39 enforcement.
27. Applicant will provide the Borough with an updated Geotechnical Report.
28. Applicant will install full NFPA 13 fire sprinkler systems in all buildings.
29. That the granting of the application is subject to the approval of the Passaic County Planning Board.
30. Except as set forth herein, all improvements will be constructed in accordance with the Plans identified herein. Notwithstanding, no approval granted herein shall be deemed to supersede any building code requirements.
31. The applicant shall obtain and comply with any federal, state, county, and Borough government rules, ordinances, or regulations with regard to the granting of the applications hereto, including the payment of all fees and escrows, established by the Borough for the review of the subject application.

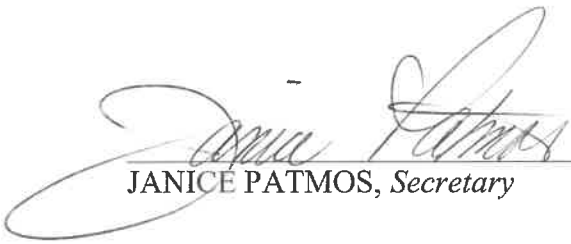
32. To the extent not set forth herein, the applicant shall comply with any and all applicable requirements of the Federal Americans with Disabilities Act.
33. All lighting on the site shall be restricted to this site and shall not spill over on any other sites. The applicant shall install shields, if required. The Planning Board retains jurisdiction for a period of one year from the date that the final certificate of occupancy is issued to evaluate the lighting and require adjustments.
34. This approval is subject to all of the representations made by the applicant and its' experts.
35. The applicant shall obtain and submit to the Planning Board a certification from the Passaic County Soil Conservation District. Applicant will be required to maintain soil erosion control during construction.
36. Applicant shall enter into a Developer's Agreement in a form to be prepared by the Planning Board or Borough Attorney and shall post of Performance Guaranty pursuant to Municipal Land Use Law in accordance with the engineer's estimate.
37. A tire wash procedure shall be instituted during construction prior to any vehicle leaving the Property.
38. All retaining walls will be an earth tone color.
39. The architectural drawings contain inconsistencies. The siding of the building as shown on drawing SD-200 is not consistent with drawing SD-202, the siding installed on all buildings shall be as shown on drawing SD-202. The gable shown on drawing 202 is not consistent with the gable as shown on drawing SD-200, the gables shall be installed as shown on drawing SD-200.
40. The laterals in the sanitary sewer line located along the south property line shall be extended to the shared property line of the neighbors to the south to allow for future connections.
41. Applicant shall be responsible for the cost of sanitary flow tests to be performed by the Borough for the sewer lines along and past Diamond Bridge Avenue, which amount is not to exceed \$14,000.00. Applicant shall deposit the amount of \$14,000.00 into the escrow account and the Borough may use such funds to pay for the tests to be performed by outside contractors. Any amount remaining after payment shall be returned to Applicant.

BE IT FURTHER RESOLVED that the Chairman and the Secretary of the Board are hereby authorized to affix their signatures to this resolution granting approval for preliminary and final site plan and variances. The Secretary of the Board is hereby authorized to advertise the action taken by way of this resolution in the local newspaper and furthermore send certified copies of this resolution

to the Borough tax assessor, construction code enforcement official, building sub-code official, zoning official, the borough attorney, and the applicant's attorney.

Approved:

Planning Board of the Borough of Hawthorne


JANICE PATMOS, *Secretary*

By: 
WALTER GARNER III, *Chairman*

Date: