

## **Hawthorne Planning Board Minutes of March, 2010 Work Session**

The March 2, 2010 meeting of the Hawthorne Planning Board was called to order at 7:32 P.M. by Chairman Garner. After recital of the Pledge of Allegiance, Board Secretary William A. Monaghan, III called the roll. All members and alternates except Mr. DeAugustines were present as well as Board engineer Michael J. Kelly, P.E. and Board attorney/secretary William A. Monaghan, III, Esq. Chairman Garner announced that notice of the meeting had been published and posted in accordance with the Open Public Meetings Act. Mayor Goldberg then announced the appointment of Mary Lou DiMattia as a new Class IV Board member to replace Mr. Lane, the appointment of Norman Kowalski to fill Ms. DiMattia's unexpired term as Alternate #1 and the appointment of Mary D. Forshay to fill Mr. Kowalski's unexpired term as Alternate #2. Mayor Goldberg then administered the oaths of office to Ms. DiMattia, Mr. Kowalski and Mrs. Forshay.

1. With regard to the application of **Genesis Car Care, LLC**, Pedro A. Lopez, co-owner, appeared on behalf of the applicant. After being sworn, he testified that the applicant proposes to operate an automobile repair business in the existing bays on the premises. The applicant's business would be separate from the mini-mart and retail gasoline station also located at the site. The applicant's business would replace a similar repair business operated in the bays. No body work would be performed by the applicant. Two employees (the co-owners) would operate the business. Twenty on-site parking spaces are available and no exterior changes to the premises are proposed. A motion was then made by Mayor Goldberg, seconded by Mr. Ruta and approved by a vote of 6-0 to grant the application for certificate of compliance plan review subject to preparation of a memorializing resolution by the Board attorney.
2. With regard to the application of **Good Earth Landscape**, William Pols and Dawn Pols, owners, appeared on behalf of the applicant. After being sworn, they testified that the applicant proposes to lease the subject premises for the parking of equipment used in its landscape contracting business. The site was previously occupied by a landscape contractor. The applicant proposes to park four trucks and four trailers in the open yard. Other equipment would be stored in the garage. The applicant's six employees would arrive at the premises in two vehicles and depart for job sites in the applicant's trucks. No exterior changes to the premises are proposed. A motion was then made by Vice Chairman Lucibello, seconded by Mayor Goldberg and approved by a vote of 7-0 to grant the application for certificate of compliance plan review subject to preparation of a memorializing resolution by the Board attorney.
3. With regard to the application of **RES Associates**, David Riviello, owner, appeared on behalf of the applicant. After being sworn, he testified that the applicant proposes to lease space on the premises of the Hawthorne Chevrolet dealership for the operation of a wholesale and retail used car business. The applicant currently conducts a portion of its business with Hawthorne Chevrolet. The applicant would utilize an office of approximately 200 square feet as well as thirty parking spaces allocated by the

landlord. No exterior changes to the premises are proposed. A motion was then made by Mayor Goldberg, seconded by Ms. DiMattia and approved by a vote of 7-0 to grant the application for certificate of compliance plan review subject to preparation of a memorializing resolution by the Board attorney.

4. With regard to the application of **The Red Ribbon Pretzel Company, Inc.**, Vice Chairman Lucibello recused himself with regard to the hearing of the application. Roseann Toscano and Joyce Puro, owners and Lisa Vandenberg, representative of the property owner, appeared on behalf of the applicant. After being sworn, they testified that the applicant is seeking approval for retail sales at the premises for which they previously received a certificate of compliance. A glass door would be added to facilitate pickups and deliveries. No additional employees would be required for the retail operation. Four on-site parking spaces are allocated by lease. During public comment, James Dusenberry questioned whether a handicapped parking space is available or required. The Construction Official will be asked to review the issue. A motion was then made by Mayor Goldberg, seconded by Ms. DiMattia and approved by a vote of 6-0 to grant the application for certificate of compliance plan review subject to preparation of a memorializing resolution by the Board attorney with the condition that the construction official review the necessity for a handicapped parking space.

#### OLD BUSINESS

1. With regard to the application of **Campos Landscaping**, Jose Campos, owner and Fawaz Kurdi, operator of the service station on the site appeared for the continuation of the hearing. Mr. Monaghan noted that the applicant had submitted a scaled diagram of the premises as requested by the Board, showing the fenced area to be used by the applicant for the parking of his landscaping vehicles. Based on the submission of the diagram, a motion was then made by Mr. Matthews, seconded by Vice Chairman Lucibello and approved by a vote of 7-0 to grant the application for certificate of compliance plan review subject to preparation of a memorializing resolution by the Board attorney.
2. With regard to the application of **Morlot Distribution Center**, Cathy English and Darren English, owners of the applicant, and Elaine Arnoldi, owner of the adjacent property, appeared on behalf of the applicant for the continuation of the hearing and were placed under oath. Mr. Monaghan noted the receipt by the Board of a letter from the adjacent property owner granting permission for the applicant to utilize a portion of its property for parking as well as for the movement of trucks. The applicant also submitted a sketch diagram depicting proposed parking and truck delivery routes. The applicant agreed to eliminate Sunday retail sales. During public comment, James Dusenberry submitted photographs showing traffic conditions in the area and expressed his opposition to the proposed retail aspect of the applicant's business operation. After discussion, a motion was then made by Mayor Goldberg, seconded by Mr. Kowalski and approved by a vote of 7-0 to grant the application for certificate of compliance plan

review subject to preparation of a memorializing resolution by the Board attorney with the conditions that no retail sales are permitted on Sundays, the applicant will stripe the on-site parking spaces and no loading or unloading are permitted on Ethel Avenue.

3. With regard to the application of **Shotmeyer Brothers Inc.**, Jerome A. Vogel, Esq. appeared as attorney for the applicant, together with Charles Shotmeyer, employee of the applicant, for the continuation of the hearing. Mr. Shotmeyer was placed under oath. Mr. Vogel cited a section of the International Fire Code regulating outdoor storage of tires which he stated had been adopted by the Borough of Hawthorne. He then argued that his client should be permitted to continue to store tires on the site provided that his client satisfied the standards set forth in the Fire Code. He offered and distributed copies of a sketch diagram purporting to demonstrate that his client could comply with the criteria in the Code. Since the sketch diagram had not been submitted in advance of the meeting, Board engineer Michael Kelly advised the Board that he required the opportunity to review the diagram and inspect the site to confirm the applicant's measurements. Mr. Kelly also indicated that the tire storage appeared to be outside of the flood hazard area and therefore not in violation of NJDEP flood regulations. Mr. Kelly further recommended that the applicant be required to submit a site plan for review by his office. Mr. Vogel objected since no construction is proposed by his client. After discussion, Mr. Kelly agreed that a partial site plan would be sufficient. Mr. Monaghan suggested that, as a procedural matter, the Board could deny the certificate of compliance application and require the applicant to file a site plan application. Mr. Vogel strenuously objected. After extended discussion, the Board agreed to permit the certificate of compliance application to proceed with the applicant to submit a partial site plan by March 24, 2010. Mr. Kelly agreed to submit his review of the site plan by March 26, 2010. A motion was then made, seconded and unanimously approved to continue the hearing until the April 6, 2010 Board meeting. In the interim, the applicant agreed to reduce the height of the tire piles to ten feet or less with no additional tires to be brought to the site. A review of the applicant's plan will also be required by the Borough Fire Prevention Bureau for compliance with the Code provisions cited by Mr. Vogel. Mr. Monaghan reported that an inspection will also be conducted by the Borough's contractual health officer. The hearing was opened for public comment and Joseph Wojtecki questioned whether the applicant's proposed use is permitted under the provisions of the zoning ordinance for the I-1 Zone.
4. With regard to the application of **Physique by Malik, LLC**, no one appeared on behalf of the applicant. Since the applicant failed to appear at the previously scheduled hearing date, and further attempts to contact the applicant were unsuccessful, a motion was made, seconded and unanimously approved to deny the application without prejudice for lack of prosecution.

NEW BUSINESS – None

PUBLIC

The meeting was then opened for public comment. James Dusenberry questioned the Board's decision to permit a retail use in the I-1 Zone and suggested that a major expansion of retail uses could result.

The meeting was then adjourned at 9:55 P.M.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "William A. Monaghan, III". The signature is written in a cursive, flowing style with some overlapping letters.

William A. Monaghan, III  
Board Attorney/Secretary