

**BOROUGH OF HAWTHORNE
PLANNING BOARD**

**RESOLUTION GRANTING SITE PLAN AND VARIANCE APPROVAL FOR
PREMISES KNOWN AS BLOCK 174 LOT 30.02,
KNOWN AS 50 UTTER AVENUE, BOROUGH OF HAWTHORNE
COUNTY OF PASSAIC, STATE OF NEW JERSEY**

WHEREAS, an application has been submitted to the Borough of Hawthorne Planning Board by Premio Foods, Inc. for site plan and variance approval for the on premises known as Block 174, Lot 30.02 on the current tax assessment map of the Borough of Hawthorne; and

WHEREAS, a public hearing of the Planning Board was held on Tuesday, December 3, 2024 (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, Christopher P. DePhillips, Esq., together with all exhibits submitted as evidence; and

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

Plans entitled “Proposed Loading Dock, Building Addition, Premio Foods, Inc.” prepared by Justin J. Provencher, PE of LAN Associates, dated September 9, 2022, revised November 1, 2024 consisting of 4 pages;

Architectural Plans entitled “Premio Foods, Warehouse Addition” prepared by Ryan A. Marshall, Architect, PE of CMC Architecture PC, NJ dated September 9, 2022 revised November 1, 2024 consisting of 4 pages:

Foundation plan entitled “Premio Foods, Warehouse Addition” prepared by CMC Design-Build dated September 9, 2022, revised November 1, 2024; and

WHEREAS, the property is owned by SMC Realty, LLC, which entity authorized the making of the application by applicant; and

WHEREAS, the submissions by Applicant have been reviewed by the Planning Board engineers, Boswell Engineering, and their comments and recommendations are set forth in their letter to the Planning Board dated November 25, 2024; and

WHEREAS, the application submitted by the applicant requests the following relief:

Minimum Single Side Yard Setback	10 feet required; 1.4 feet existing.
Maximum Lot Coverage	50% permitted 89.2% existing and 89% proposed.

Parking Spaces 104 spaces required; 21 spaces existing and 36 spaces Proposed; and

WHEREAS, the applicant has requested the following waivers from the submission checklist requirements:

- Item 14 Plans for stormwater management calculations.
- Item 15c Landscape plan; and

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

Eric Fidoten is the senior vice president in charge of operations for the applicant. He provided a general outline of the addition and purpose. The applicant proposes an approximately 5,200 square foot addition to the existing 45,000 square foot building. The addition will be constructed in front of the six existing loading bays. Currently, two of the six bays are not usable. The addition will also provide six loading bays which will all be accessible. Having the full use of six bays will reduce the number of trucks waiting for space and idling while they are waiting. The purpose is to allow for an increase in refrigerator storage area. The addition will allow for more efficient operations with automated packaging equipment. There will be no change in the traffic patterns for automobiles or trucks. The operation will remain basically the same and there will be no increased noise.

The number of parking spaces available will be increased from the current 21 to 36. Fifteen of the spaces will be located on adjoining lot and the applicant has the right to use the spaces per a lease agreement with the property owner. There will be no additional employees as a result of the addition and thus no additional demand for parking spaces.

In response to a question from a board member, there will be compressors located on the roof. Screening on three sides of the compressors is proposed. The applicant agreed to install screening on all four sides to prevent noise affecting the adjoining properties.

The matter was open to the public for questions of this witness and no one from the public appeared.

Justin Provencher was accepted by the Board as an expert in the field of site engineering and testified as to the proposed site improvements. The setback of the proposed addition from the lot line is the same as the existing building. The current lot coverage is 89.2 percent where only 50 percent is permitted. The lot coverage is proposed to be reduced to 89 percent. There is no increase in the number of parking spaces required by the zoning ordinance as there are no additional employees. There is no change to the drainage flow. All roof leaders discharge to the ground and will continue to follow the existing flow. In response to an inquiry from a Board member, he agreed that the drainage would be reviewed with the Board engineer to determine if seepage pits may be required. The only additional lighting being proposed are lights above the access doors and the loading doors, which lighting is minimal. The remaining site lighting will

not be changed, and he is of the opinion that it is sufficient. All lighting will be in compliance with the zoning ordinance.

The hearing was open to the public for questions of this witness. Sara Tineo questioned whether there would be more traffic on Fifth Avenue and whether there would be any new exits or entrance onto Fifth Avenue. The witness advised there will be no change to the traffic on Fifth Avenue and no new access points.

Lois Kelley testified and was accepted by the Board as an expert in architecture and design build. She is the senior program planner for CMC Design Build. They specialize in the design of food protection facilities. She testified that there will be three new condensers on the roof. The screening will reduce the noise level of these condensers by 50 percent. The proposed screening will result in no noise levels that exceed state requirements. The existing building lighting will be relocated to the addition and will not affect the adjoining properties. During construction, all construction materials can be stored on site without impeding the existing operations. The addition will improve the efficiency of the applicant's operations.

The matter was open to the public for questions of this witness and for comments to the application. Robert Ryan appeared and commented that employees were currently parking on Fifth Avenue and trucks tended to idle on Fifth Avenue while waiting for access. Mr. Fidoten testified that he was not aware that employees were parking on the street and that they had been instructed not to as there is sufficient parking on site for employees. He promised to enforce the company's policy; and

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

1. The applicant currently occupies the property for its operations which is a permitted use.
2. Based on the testimony of the applicant's representatives, which the Board finds credible, the addition will not result in any additional employees or intensity of the applicant's operations.
3. The additional 15 parking spaces represents an improvement and should reduce employee parking off-site.
4. The setback of the building is the same as the existing building and will not impact the adjoining property. The lot coverage variance is an existing condition which condition is being reduced slightly.
5. The addition will allow the applicant's operations to run more efficiently and will result in less trucks waiting to use the loading bays. Waiting trucks cause congestion and noise issues as they idle while waiting.
6. There is no increase to the water runoff as the addition is being constructed over a macadam area. The applicant has agreed that there would be further review of the

drainage and seepage pits installed if the Board engineer determines necessary.

WHEREAS, the Planning Board has considered the request by the applicant for the variances and waivers set forth above. In considering the overall application to be in accordance with sound and proven zoning and planning principles, the Planning Board has determined that, based on the above mentioned facts and the testimony of the witnesses, the requested variances can be granted without causing a substantial detriment to the public good, nor substantially impairing the intent and purpose of the Hawthorne Zoning and Land Use Ordinance.

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 Premio Foods, Inc. for preliminary and final site plan approval for those premises known as Block 174, Lot 30.02, 50 Utter Avenue, along with the waivers and variances set forth herein 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. That the granting of the application is subject to the approval of the Passaic County Planning Board, if necessary.
2. All improvements will be constructed in accordance with the Plans. Notwithstanding, no approval granted herein shall be deemed to supersede any building code requirements.
3. 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.
4. To the extent not set forth above, the applicant shall comply with any and all applicable requirements of the Federal Americans with Disabilities Act.
5. All lighting on the site shall be restricted to this site and shall not spill over on any other sites. The Planning Board retains jurisdiction for a period of six months after the issuance of a certificate of occupancy for the improvements to evaluate the site lighting and require adjustments.
6. This approval is subject to all of the representations made by the applicant and its' experts.
7. The applicant shall obtain and submit to the Planning Board a certification from the Passaic County Soil Conservation District.
8. The applicant shall install provide a lighting plan to the Board Engineer for review to

confirm that the lighting is in compliance with the zoning ordinance and site plan ordinance

9. The applicant shall install screening on all four sides for the mechanical equipment on the roof.
10. No employees of applicant or the contractors installing the improvements shall be permitted to park on the street.
11. The applicant shall submit a revised parking plan for review by the Board Engineer to confirm that all ADA requirements are met.

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

By:


ROBERT LUCIBELLO, *Chairman*


JANICE PATMOS, *Secretary*

Date: