

RESOLUTION

Township of West Orange

Planning Board

PB 25-02 Orange Prospect, LLC/111 Prospect Avenue

Block: 151 Lot: 17.01; Zone: B-2

Decided on May 7, 2025

Memorialized on June 4, 2025

Preliminary and Final Site Plan Approval with Bulk Variances and Waivers

WHEREAS, Orange Prospect, LLC (hereinafter the “Applicant”) has made an application for Preliminary and Final Major Site Plan approval with Waivers and Bulk Variances to reconstruct the existing driveway, walking path, and valet parking area and renovate the main building at the existing restaurant/banquet facility located at 111 Prospect Avenue, also known as Block: 151 Lot: 17.01, in the B-2 Zone; and

WHEREAS, a properly noticed public hearing was conducted on May 7, 2025; and

WHEREAS, the Applicant was represented by Kenneth D. McPherson, III, Esq. of Gibbons, P.C.; and

WHEREAS, the Applicant provided testimony of J. Michael Petry, P.E., P.P., AIA, of Petry Engineering , a licensed, Engineer, Architect and Planner in the State of New Jersey whose credentials were accepted by the Board; and

WHEREAS, the Applicant submitted the following documents to the Board in the form of the application package:

ITEM	SIGNED BY	DATE/REVISION
Site Plan Set (23 Sheets)	J. Michael Petry, P.E., P.P., A.I.A.	1/31/2025

Floor Plans and Elevations (7 Sheets)	J. Michael Petry, P.E., P.P., A.I.A.	12/23/2024
Boundary Survey (1 Sheet)	Zdravko Lucin, P.L.S.	2/29/2012
Stormwater Management Report	J. Michael Petry, P.E., P.P., A.I.A.	12/27/2024
Stormwater Maintenance Manual	J. Michael Petry, P.E., P.P., A.I.A.	12/27/2024

WHEREAS, representatives of the public asked questions of the witnesses and had an opportunity to offer statements regarding the application; and

WHEREAS, the Board reviewed and considered the application, testimony and documents submitted therewith; and

WHEREAS, the Board also considered the input of its professionals including Gerard M. Haizel, PP, AICP of Nishuane Group and Phillip Scott, P.E., C.M.E. of Matrix New World Engineering at the hearing; and

NOW THEREFORE, the Board makes the following findings of fact, based upon the evidence presented at its public hearing, at which a record was made:

1. The property is located in the B-2 Zone and Applicant seeks to reconstruct the existing driveway, walking path and valet parking area, as well as to do renovations to the main building at the existing restaurant/banquet facility. Construction of a Porte-Cochere and community garden are also included in the scope of work.
2. The existing restaurant/banquet facility is permitted in the B-2 District; however, the proposed development requires a variance from the bulk standards for this use in the B-2 District.

3. The subject site encompasses 361,261 sq. ft. (8.29 acres) and is improved with a large commercial building, which houses a restaurant/banquet facility and a two-story accessory building, which is located to the north of the main building.
4. Both the main and accessory buildings are surrounded by existing surface parking lots located to the north and south. The area to the west of the main and accessory buildings is landscaped to the western property line. The landscaped area includes a large fountain at the rear of the main building and smaller fountains and an existing gazebo located to the north of it. A series of brick paved sidewalks extends throughout the landscaped area, connecting the fountains and gazebo.
5. The Applicant proposes to demolish and reconstruct the existing walking paths and driveways and the valet parking area.
6. The scope of work proposed also includes the renovation of the main building, primarily the reconfiguration of the interior layout and finishes, and the construction of the Porte-Cochere at the main entry to the building located on the northern elevation, adjacent to the existing driveway. Other than the addition of the Porte-Cochere, the footprint of the main building will remain the same.
7. Applicant's engineering, architectural and planning expert, Michael Petry, testified that the well-known banquet facility received Planning Board approval in 1996 for a total occupancy limit of 1,404 persons.
8. The last approval received for the restaurant/banquet facility was in 2013 related to the roof top renovation.

9. The current owners purchased the facility and seek to update the exterior to include a Porte-Cochere so that patrons can pull up to the front entrance and be protected from inclement weather.
10. The project will include updating the exterior with removing part of the green house façade and installing new glass and doors to exit to a fountain area.
11. The project also includes a reconfiguration of the exit driveway to make a safer exit by regrading the driveway so that exiting vehicles are on a more level plane and which allows for safer exiting movement.
12. There are three parking areas, A, B & C with Lot B being the “front parking lot” that will have 6 ADA compliant parking spaces and 6 total EV parking spaces (2 of which are ADA and EV combined).
13. The placement of the ADA and EV spaces in the front lot (Lot B) was appropriate as this is the lot that will have the most use and provides those requiring ADA parking a direct route to the front entrance.
14. The Applicant proposes to increase the available parking to a total number of parking space of 471 (including EV credits).
15. A tree replacement plan was submitted to the Board which will be reviewed for approval by the Township Forester (as per West Orange Tree Ordinance.)
16. Applicant will create a community garden behind and adjacent to the carriage house which currently has a green house. The garden will service the restaurant and banquet facility with vegetables and herbs grown on site and will also be available to certain community groups to use and learn from on a first come first served, annual application

basis according to the stipulated conditions that will be placed on file with the Board's Secretary..

17. The pre-existing non-conformities related to various setbacks to property lines are not changed or affected by the proposed renovations.
18. The site currently has 61.75% impervious coverage and the Applicant will be reducing the impervious coverage to 60.53% (which still requires a variance as 60% impervious coverage is permitted.) The reduction in impervious coverage amounts to over 1,900 square feet of reduced impervious coverage.
19. The Board finds that there is a direct public benefit created by the reduction of impervious coverage and other stormwater improvements that will be installed which will improve stormwater drainage on the site.
20. Applicant reviewed the West Orange Pedestrian Safety Advisory Board Memorandum dated May 5, 2025 and Mr. Petry testified that the will install a pedestrian sidewalk along the frontage of the property that is located on Prospect Avenue. (The Board noted that the addition of the sidewalk will allow persons staying at the hotel to the north of the facility the ability to walk on a safe sidewalk to the shopping center at the corner of Eagle Rock Avenue and Prospect Street where a new Target is being constructed.)
21. Applicant requested waivers from the Township of West Orange for Items Number 22 (Development Staging), 46 (Solid Waste Management Plan) and 52 (COAH Compliance).
22. Board Planner, Mr. Haizel, in his report dated March 20, 2025, agreed with waiver requests for Item 22 Development Stages or Staging Plans as no staging of development is proposed and Item 52 Compliance with West Orange COAH Ordinance noting that to

the extent that any non-residential development fees are determined to be applicable for this development, Applicant will supply the required payment prior to the issuance of an occupancy certificate relative to the proposed improvements.

23. With respect to Applicant's request of a waiver of Item 46 (Solid Waste Management Plan), the Board Consulting Engineer indicated that an updated Solid Waste Management Plan that shall account for the recycling of food waste must be provided.

24. The Application requires the following variance relief from the Board:

SECTION/REQUIREMENT	REQUIRED	EXISTING	PROPOSED
25.7.1 Maximum impervious coverage	60%	61.75%	60.53%

25. N.J.S.A. 40:55D-46a. and b. and N.J.S.A. 40:55D-50a. govern the Board's review of the preliminary and final site plan application. N.J.S.A. 40:55D-46a provides that an "ordinance requiring site plan review and approval shall require the developer submit to the administrative officer a site plan and such other information as is reasonably necessary to make an informed decision as to whether the requirements necessary for preliminary site plan approval have been met." N.J.S.A. 40:55D-46a further provides that "The site plan and any engineering documents to be submitted shall be required in tentative form for discussion purposes for preliminary approval. If any architectural plans are required to be submitted for site plan approval, the preliminary plans and elevations shall be sufficient." N.J.S.A. 50:55D-46b provides that "if the planning board required any substantial amendment in the layout of improvements proposed by the developer that have been the subject of a hearing, an amended application for development shall be submitted and proceeded upon, as in the case of the original application for development" and "the planning board shall, if the proposed development complies with the ordinance and this

act, grant preliminary site plan approval.” N.J.S.A. 40:55D-50a. provides that final site plan approval “shall” be granted if the detailed drawings, specifications, and estimates of the application conform to the standards of all applicable ordinances and the conditions of preliminary approval. As such if the applicant meets the standards set forth in the ordinances, the planning board lacks the authority to deny approval of the site plan and subdivision. N.J.S.A. 40:55D-50a; PRB Enters., Inc. v. S. Brunswick Planning Bd., 105 N.J. 1, 7 (1987); Dunkin' Donuts of N.J., Inc. v. Twp. of N. Brunswick Planning Bd., 193 N.J. Super. 513, 515 (App. Div. 1984). Conversely, if the application does not comply with all ordinance requirements, the Board must deny approval. Cortesini v. Hamilton Planning Board, 417 N.J. Super. 201, 215 (App. Div. 2010). However, there are two exceptions: (1) The first exception is where an application does not comply with all ordinance requirements but the Board grants relief in terms of variances or exceptions. In that case, the Board then must review the application against all remaining ordinance requirements and grant approval if the application complies with all such remaining requirements.

26. N.J.S.A. 40:55D-60 permits a planning board to grant variances from the bulk regulations of a zoning ordinance and other zoning deviations that do not require a “d” variance as part of site plan or subdivision review. The variance proofs are the same as for “c” variances as set forth in N.J.S.A. 40:55D-70. A c (2) variance may be granted when the purposes of zoning are advanced and the benefits of deviating from the ordinance requirements outweigh any detriments. The benefits derived from granting a “c (2)” variance must include benefits to the community as a whole, not just the applicant or property owner. A “c” variance must address the “negative criteria,” and affirmatively demonstrate that the variance can be granted “without substantial detriment to the public

good” and “without substantial impairment to the intent and purpose of the zone plan and zoning ordinance” of the municipality.

NOW, THEREFORE, based upon the foregoing findings of fact, the Board reaches the following conclusions of law:

1. This application requires preliminary and final major site plan approval and bulk variance relief with waivers.
2. The requested variance for impervious coverage of 60.53% (where 60% is the limit of impervious coverage) satisfies the c(2) criteria for the variance because it provides a direct public benefit as it is a reduction of the pre-existing impervious coverage of 61.75%, will improve stormwater management and will be an aesthetic improvement to the site as a whole.
3. Waivers as to Items 22 and 52 are satisfactory as they were either not applicable or satisfied by the testimony presented by the Applicant.

NOW THEREFORE be it resolved by the Planning Board of the Township of West Orange preliminary and final major site plan and variance relief for maximum impervious coverage and waivers as to Items 22 and 52 is granted.

AND IT IS FURTHER RESOLVED that the above approval is subject to the following terms and conditions:

1. The Applicant shall comply with all applicable Township, County, State and Federal laws, ordinances, regulations and directives, including without limitation, obtaining all applicable local, state and federal approvals and/or permits. Without limitation of the

foregoing, prior to the signing of the approved site plans, and prior to the commencement of any land disturbance or construction but excluding interior renovations, the Applicant shall submit to this Board, with a copy to the Board Engineer, proof that it has obtained all required governmental approvals.

2. In the event that any other required regulatory approval conflicts with the terms and conditions hereof, or materially alters the same, or the terms and conditions hereof are materially altered by any change in applicable law or regulation other than those municipal regulations for which change is prohibited by the Municipal Land Use Law (MLUL), or in the event Applicant or its successor or assigns construct or attempt to construct any improvement in conflict with or in violation of the terms of this approval, the Board hereby reserves the right to withdraw, amend or supplant the instant approval.
3. All construction, use and development of the property shall be in conformance with the plans approved herein, all representations of the Applicant and its witnesses during the public hearing, all exhibits introduced by the Applicant, and all terms and conditions of this resolution.
4. The Applicant shall pay all outstanding taxes, tax liens, application fees and technical review fees, and Board attorney fees for preparation of resolution as well as any inspection fees that may be required hereunder. The Applicant shall pay any additional fees or escrow deposits which may be due and owing within thirty (30) days of the notification or this approval shall be deemed withdrawn.

5. All notes included in the approved plans, including notes required by this Resolution, shall be deemed conditions of approval having the same force and effect as conditions expressly set forth in this Resolution.
6. Applicant agrees to comply with or address all recommendations set forth in the report of Phillip Scott, P.E. dated March 25, 2025.
7. Applicant will install a sidewalk along the entire property frontage of Prospect Avenue and will submit a revised plan detailing location and specifications of the sidewalk.
8. Applicant will provide revised drawings as requested by the Board's Consulting Engineer Phillip Scott, P.E. of Matrix New World in his letter dated March 25, 2025.
9. In accordance with the Township's Tree Ordinance, all tree and landscape plantings will be directed solely to the Township Forester for review and approval.
10. Applicant must submit a written manual providing instruction as to the use of the community garden to be kept on file by the Board Secretary.
11. Total occupancy permitted shall be increased from 1,404 to 1,515 (based upon total parking provided of 471 spaces, including EV credits).
12. Applicant shall list all conditions of approval onto a final site plan submission.

The undersigned secretary certifies the decision set forth herein was made by this Board on May 7, 2025, and memorialized herein pursuant to N.J.S.A. 40:55D10(g) on June 4, 2025.

A handwritten signature in black ink, appearing to read 'Jamilet Baquerizo-Vite', is written over a horizontal line.

Jamilet Baquerizo-Vite,
Planning Board Secretary

Vote Action Taken by the Board on May 7, 2025:

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
K. Alper			X			
J. Guarino		X	X			
L. Klein			X			
S. McCartney			X			
C. Morgan					---	
S. Scarpa			X			
W. Wilkes			X			
J. Cardoza			X			
L. Kapferer					----	
R. Bagoff	X		X			

Vote on Memorialization on June 4, 2025:

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
K. Alper			X			
J. Guarino		X	X			
L. Klein						---
S. McCartney			X			
C. Morgan						---
S. Scarpa						---
F. Noborine					---	
W. Wilkes						---
J. Cardoza			X			
L. Kapferer						---
R. Bagoff	X		X			