



COFONE CONSULTING GROUP
LAND USE CONSULTANTS

CONSULTING REPORT

Block 105, Lot 64.01
460 Prospect Avenue

Township of West Orange
County of Essex

Prepared for:

Mavis Tire Supply, LLC

Prepared by:

Cofone Consulting Group
52 Reckless Place
Red Bank, New Jersey 07701

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Christine A. Nazzaro-Cofone, AICP, PP
New Jersey Professional Planner License #5517

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I. Introduction

The purpose of this report is to assess whether the proposed development would result in a substantial detrimental impact on the public good or the surrounding neighborhood. This analysis considers the potential effects of the project on the character, and general welfare of the area, as well as its consistency with existing planning principles, zoning regulations, and the municipal land use law. The findings presented herein are intended to provide a clear basis for evaluating the appropriateness of the proposed development within its local context.

II. Site Description

The property located at 460 Prospect Avenue, formally referred to as Block 105, Lot 64.01 is an approximate 32,118 square-foot (.74 acre) property with approximately 165 feet of frontage along Prospect Avenue. The property is located within the Townships “B-2 General Business” zoning district.

Physical Characteristics

The property is currently developed with a two-story office building and a surface parking area. Access to the site is granted via an ingress/egress driveway along Prospect Avenue, as well as Blueberry Bend, a private road that provides access to the adjacent property – Block 84.01, Lot 63, a commercial property – to the south. The property is improved with sidewalks, curbing, a striped surface parking area, landscaping, signage, decorative landscape walls, and utility infrastructure.

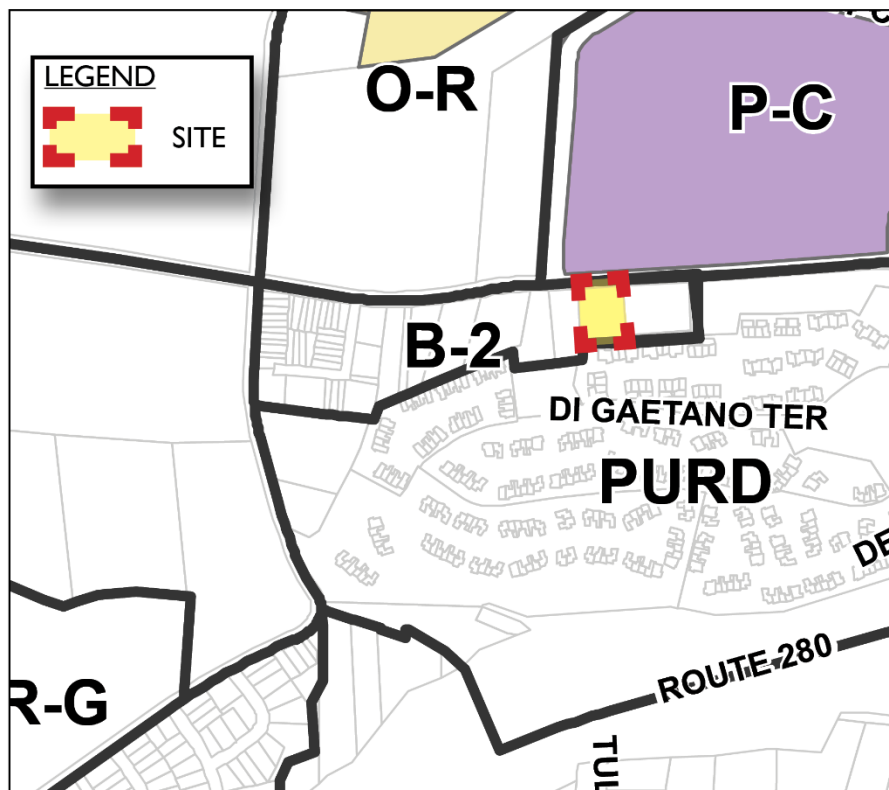
OVERALL SITE AREA AERIAL IMAGERY (2024)



SOURCE: GOOGLE EARTH AERIAL IMAGERY DATED OCTOBER 2024
PROPERTY BOUNDARIES ARE APPROXIMATE



SITE ZONING DESIGNATION (2020)



SOURCE: TOWNSHIP OF WEST ORANGE ZONING MAP, DATED 2020
<https://westorange.org/DocumentCenter/View/2073/Zoning-Map---Township-of-West-Orange?bidId=>

III. Character of Surrounding Area

The property is located along Prospect Avenue (County Route 577), approximately 2,200 feet south of the Interstate 280 entrance and exit, offering convenient regional access. Immediately northeast of the site is the Essex Green Shopping Center, a major retail hub featuring a range of regional and big-box commercial tenants, including PetCo, Panera Bread, Mattress Warehouse, AMC Theatres, TGI Fridays, and ShopRite. The surrounding zoning and land use patterns are as follows:

- North: B-2 General Business Zone and PURD Planned Unit Residential Development – the B-2 zone is characterized by commercial and retail uses, and the Planned Unit Residential Development zone is characterized as a medium density residential townhome development;
- West: P-C Planned Commercial and O-R Office Research – consisting primarily of regional, big-box, and local retailers, restaurants, and office uses;
- South: B-2 General Business zone and R-1 Single Family Residential – the B-2 zone is characterized by commercial and retail uses, and the R-1 zone is characterized by low density single-family residential development;



- East: URD Planned Unit Residential Development – Planned Unit Residential Development zone is characterized as a medium density residential townhome development.

As previously mentioned, the property has direct frontage along Route 577 (Prospect Avenue), a major north-south corridor in West Orange. Route 577 provides direct connections to Interstate 280, County Route 508, and New Jersey Route 10. From these connections, additional access is available to County Route 636 and other key regional roadways, facilitating convenient travel within West Orange and to neighboring municipalities. This strategic location enhances the site's accessibility for residents, employees, visitors, and commercial traffic throughout the region.

IV. Proposed Development

Mavis Tire Supply, LLC (hereinafter “the Applicant”), is proposing to demolish the existing structure on the site to accommodate an approximately 7,700 SF retail and automotive service facility, inclusive of an approximately 900 SF sales retail area and 8 service bays. The proposed facility will offer the sale of tires and similar automotive products, as well as light vehicle maintenance services, including oil changes; tire replacements and repair; battery replacement and installation; and brake services. This location is intended to replace an existing Mavis Tire facility in close proximity that is scheduled to close, thereby allowing the business to continue serving the surrounding community without interruption. Additional improvements to the site include a surface parking area containing 19 delineated parking spaces inclusive of one ADA space, stormwater management infrastructure, signage, lighting, and landscaping. The site will be restricted to “right in / right out” along Prospect Avenue.

V. Planning and Zoning Analysis

The property is located within the Townships B-2 General Business Zone. The General Business Zone principally permits the following uses: Retail store; Personal service store or studio; Office or office building; Business or vocational school; Restaurant; Bar; Massage, bodywork or somatic therapy establishment; Fitness center/health club. The Township does not expressly permit automotive service facilities within the B-2 General Business Zone.

VI. Relief Required

As the Township does not expressly permit automotive service facilities within the B-2 zone, the proposed application requires D-1 use variance relief to grant the approval of



the facility. Additionally, the application requires C-2 variance relief due to impervious coverage, and for not meeting the minimum required parking spaces for a motor vehicle service station. It is also important to acknowledge a pre-existing non conformity for the drive aisle setback, and a design waiver from parking area illumination requirements.

- The Township does not permit automotive service facilities within the B-2 zone, whereas the applicant proposes an automotive service facility.
- The maximum permitted impervious coverage for the B-2 zone is 60% (19,270 SF), whereas the applicant proposes an impervious coverage of 64.7% (20,770 SF).
- The Township requires 5 parking spaces, plus 2 for each service bay and 1 for each 200 square feet of gross floor area of retail space for motor vehicle fueling station or motor vehicle service station, for a total of 26 parking spaces (5 spaces + 2 spaces * 8 loading bays = 21, plus 900 SF of retail space / 200 SF of retail space = 4.5 spaces. 21 spaces plus 4.5 spaces = 25.5 spaces rounded up to 26. Whereas, the applicant proposes 19 total parking spaces.
- The minimum drive aisle side yard setback required is 5 feet, whereas the drive aisle setback that is existing on site is 0 FT, therefore this is a pre-existing non-conformity.
- The minimum illumination level for parking areas shall be 2.0 footcandles, whereas, the applicant proposes a minimum footcandle of less than 2.0 in some areas throughout the parking spaces.

VII. Justifications for Relief

The Zoning Board of Adjustment has the particular power to grant a D-1 use variance pursuant to N.J.S.A. 40:55D-70(d)(1), to permit a use that is not already permitted within a specific zone in “particular cases and for special reasons”. These “special reasons” form the basis of the positive criteria, typically advancing one or more purposes of the Municipal Land Use Law (MLUL). Under the standard established in Medici v. BPR Co., 107 N.J. 1 (1987), the applicant must demonstrate that the proposed use promotes the general welfare by advancing one or more of the purposes of the MLUL, and that the property is particularly suited for the proposed use. Given that the use is not permitted by the ordinance, the applicant must also reconcile the ordinance’s omission of the use either by offering insight into why the governing body may not have contemplated or permitted such a use in the zone, or by explaining how the proposed use is appropriate given the site-specific context and planning objectives. In addition to the positive criteria, the applicant must satisfy the negative criteria, showing that the variance can be granted without substantial detriment to the public good and without substantially impairing the



intent and purpose of the master plan and zoning ordinance, as also articulated in the Medici case.

Additionally, the Board has the power to grant C-2 “flexible” variance relief or “benefits vs. detriments” pursuant to N.J.S.A. 40:55D-70c(2) where the purposes of the Municipal Land Use Law (MLUL) would be advanced by a deviation from the zoning ordinance, and the benefits of the deviation would substantially outweigh any resulting detriment. Similarly to a D-1 use variance, no variance should be granted if it will present a substantial detriment to the public good, or if it will impair the intent and purpose of the zone plan and zoning ordinance.

D-1 Use Variance Justification

As the proposed automotive service facility is not a permitted use within the zone, D-1 use variance approval is sought.

Positive Criteria

Particular Site Suitability

The project site is particularly suited to accommodate the proposed automotive service facility. The site is approximately 32,118 SF whereas the minimum lot area within the B-2 zone is 10,000 SF. Therefore, the Applicant’s site is more than three times larger than the required site size, providing ample space on the site to comply with building setbacks, buffering, and site circulation. Additionally, the sites particular location adds to the suitability. The site is located at the confluence of several major thoroughfares including County Routes and State Highways. This prime location makes it well-suited for an automotive service facility, offering convenient access for local residents, regional customers, and travelers passing through the area. Furthermore, it should be noted that this proposed facility is intended to replace an existing Mavis Tire location that is closing, therefore there is an inherent need within the community, ensuring the continuity of service within the same market area.

Advancement of the Purposes of the Municipal Land Use Law (MLUL)

The proposed use advances many of the purposes of the MLUL, including but not limited to the following:

- Purpose c. To provide adequate light, air and open space;
 - The applicant proposes a site layout that complies with all front, rear, and side yard setback requirements, as well as buffer requirements. Therefore, the buildings on the site will



not impede on any air, light, or open space available to neighboring properties. The proposed building is compliant with height requirements within the zone, and is similar in scale and massing to surrounding buildings, therefore, there will be no harsh shadows impeding on neighboring properties as a result of permitting this principal structure and use. Additionally, the applicant also proposes landscaping throughout the site and along the site's property lines where it can be accommodated, therefore, the site will have a general overall appearance of more open space.

- Purpose g. To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens;
 - The applicant proposes a use that is not only compatible with the existing commercial character of the surrounding area, but also ideally suited to the site's strategic location near the intersection of multiple major transportation corridors, including local, county, and state highways. The proximity to these thoroughfares ensures accessibility and visibility, making the proposed automotive service facility an efficient and appropriate use that serves both local residents and regional travelers, while advancing the goal of placing commercial uses in locations that best support their function and demand.
- Purpose h. To encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight;
 - As previously mentioned, the applicant proposes a use that is appropriately situated near major transportation corridors, including local, county, and state highways, allowing for efficient vehicular access and circulation. The location capitalizes on existing infrastructure to support the intended automotive service use without introducing adverse traffic impacts or contributing to congestion. Rather, the project promotes the orderly movement of vehicles by centralizing



auto-related services in a location designed to accommodate such activity, thereby furthering the intent of this purpose.

- Purpose i. To promote a desirable visual environment through creative development techniques and good civic design and arrangement;
 - The applicant is proposing to improve the sites visual character through a combination of thoughtful site upgrades and architectural enhancements. These improvements include re-paving, re-curbing, re-striping the parking and circulation areas to establish a more organized and coordinated layout. A newly constructed visually appealing building will replace the existing structure. To further promote an aesthetically pleasing environment, the applicant also proposes new landscaping throughout the property, including along the site's frontage, and property lines, which will help soften the built form, and enhance streetscape appeal.
- Purpose m. To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land;
 - The applicant is proposing to reutilize a previously developed site, thereby capitalizing on existing infrastructure and utilities. This approach minimizes the need for new public investment, reduces development costs, and promotes a more efficient use of land.

Reconciliation of Omission

Motor Vehicle Service Facilities are permitted only in the Townships I Industrial District, along with other high intensity uses such as light industry, including dry cleaning plants, machine shops, publishing or printing plants, research laboratories, and steam laundries; and storage yards. The I district is limited to a few small sections of the Township, along the municipal boundary of West Orange and Orange Township. Given the modern evolution of automotive service facilities, as many of which now resemble traditional retail uses in appearance, operation, and customer experience, the restriction of such uses solely to industrial areas appears outdated. Today's facilities are designed to be clean, efficient, and visually compatible with surrounding commercial development. Additionally, the proposed



location's proximity to major highway corridors supports accessibility and regional demand.

Negative Criteria

The Board may not exercise its power to grant a variance unless the so called "negative criteria", showing that such variance can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance, has been satisfied.

The granting of the requested variances for the proposed automotive service facility will not result in a substantial detriment to the public good, nor will it impair the intent and purpose of the zone plan or zoning ordinance. The proposed use will provide an essential service by supporting the routine maintenance and upkeep of residents' personal vehicles, thereby promoting public safety and vehicle reliability. As mentioned earlier, there is an inherent need for this type of use, as one in close proximity closed due to redevelopment of the shopping center it was located in. In addition, the facility may offer convenient repair services for travelers passing through the area, serving as a valuable resource in the event of unexpected vehicle issues. The proposed automotive use is both compatible with and complementary to the surrounding commercial context, aligning well with the character and function of the area.

Additionally, the use aligns with many of the following goals, objectives, principles and recommendations as stated within the Townships Master Plan Reexamination Report adopted in December of 2019:

- Provide Sufficient Space for Balanced Growth and Development;
- Encourage Economic Development and Redevelopment That Is Compatible with the Suburban Character of the Township;
- Maintain the Appropriate Scale of the Community.

C-2 Benefits vs. Detriments Variance Justification

As the applicant proposes an impervious surface coverage of 64.7% (20,770 SF), where a maximum of 60% (19,270 SF) is permitted, the applicant seeks variance relief pursuant to N.J.S.A. N.J.S.A. 40:55D-70c(2).

When considering the balance test, in Pullen v. Tp. Of South Plainfield Plan. Bd. 291 N.J. Super. 303 (Law Div. 1995) courts have determined that the board should consider the benefits of the entire application when weighing against the detriments. We find that the benefits of the project as a whole substantially outweigh any detriments for the following reasons:



Positive Criteria

Advancement of the Purposes of the Municipal Land Use Law

Similarly as mentioned above;

- Purpose c. To provide adequate light, air and open space;
- Purpose g. To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens;
- Purpose h. To encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight;
- Purpose i. To promote a desirable visual environment through creative development techniques and good civic design and arrangement;
- Purpose m. To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land;

Excessive Impervious Surface

It is the implied intent of an impervious surface maximum to control excessive runoff of stormwater to adjacent properties and roadway networks. The maximum permitted impervious surface coverage in the B-2 zone is 60% or 19,270 SF, whereas the applicant proposes an impervious coverage of 64.7% 20,770 SF, which is an overage of 1,500 square feet. This slight exceedance will not result in a substantial detriment to the public good or negatively impact surrounding properties. To mitigate any potential impact, the applicant proposes stormwater management improvements to capture, and gradually release runoff generated by the additional impervious coverage. It is also worth noting that the I-Industrial Zone permits a maximum lot coverage of 75%, reflecting that the Township, in certain zones, has established standards accommodating higher impervious coverage where operational demands justify it. While the subject property is located in the B-2 Zone, the proposed lot coverage of 64.7% remains well below that benchmark, underscoring that the deviation is modest when viewed in the broader context of the Township's zoning framework.



Below Minimum Number of Required Parking Spaces

It is the implied intent of minimum parking requirements to ensure adequate on-site accommodation for employees, customers, and operational needs, thereby minimizing overflow parking on adjacent properties or public streets. The Township requires 26 parking spaces for the proposed use, based on a calculation of 5 standard spaces, 2 spaces per service bay (8 bays), and 1 space per 200 square feet of retail area ($900 \text{ SF} / 200 \text{ SF} = 4.5$, rounded to 5). In total, the required parking demand equates to 26 spaces. The applicant proposes to provide 19 parking spaces on-site, representing a shortfall of 7 spaces. However, this reduction will not result in a substantial detriment to the public good or negatively affect surrounding properties, as the number of parking spaces has been thoughtfully tailored to meet the operational needs of the proposed use without overburdening the site or adjacent infrastructure. Importantly, the reduction in the number of parking spaces also results in less overall impervious surface coverage, which is beneficial from a stormwater management standpoint. Fewer paved areas allow for improved on-site drainage, reduced stormwater runoff, and increased opportunity for landscaping and pervious surfaces.

Drive Aisle Side Yard Setback

As per §25-12.4.A.2 “an access drive to an off-street parking area or truck-loading space may be located within a required side yard, but shall not be located within five feet of a side lot line”. The site has an existing access drive that is located 0 feet from the side lot line, and it provides access to the site along Blueberry Bend. The existing condition will remain unchanged, and the proposed site improvements will not exacerbate the existing nonconformity or negatively impact the adjacent property.

Minimum Parking Illumination

As per §25-14.3, parking areas in the B-2 zone are required to maintain a minimum illumination level of 2.0 foot-candles. The applicant is proposing lighting levels that fall below this threshold in limited areas of the site, with the lowest recorded level being 0.7 foot-candles at the northwestern-most parking space. This condition results from the natural dispersion of light as it extends farther from the source. Despite this localized reduction, the parking area as a whole will remain well lit, and the proposed lighting design ensures safe and adequate visibility throughout the site during nighttime hours. Moreover, existing off-site lighting along adjacent roadways will further enhance visibility in these peripheral areas. Given the overall effectiveness of the lighting plan and the minimal nature of the deviation, the



proposed illumination levels will not compromise safety or functionality of the parking area.

VIII. Conclusion

Based on the above information, the granting of the variances will have no substantial detrimental impact to the public good, surrounding properties, or the neighborhood. The project advances several purposes of the Municipal Land Use Law, aligns with the Township's planning goals as stated within the 2019 Master Plan Reexamination report. The applicant offers a use that is both compatible with and beneficial to the surrounding commercial context. The site's strategic location, ample size, and access to major transportation corridors make it particularly suited for the proposed automotive service facility. Moreover, modern design standards and site improvements will enhance the visual character of the property, while proposed stormwater management measures will address any minor deviations from zoning requirements. Overall, the proposed development represents a logical, thoughtful reuse of a commercial property that contributes to the public good without impairing the intent and purpose of the Township's zone plan and zoning ordinance.

