

TO: Township of West Orange Planning Board

FROM: Malvika Apte, PP, AICP, Township Consulting Planner
Megan Adam, AICP Candidate, Associate Planner 

RE: **Planning Review Memorandum # 2 (HGA Planner Memo # 1)**
76 Ashland Avenue
Block 62, Lot 22.01
PB- 25-04
Cannabis Conditional Use Approval with Minor Site Plan and bulk (C) Variances

DATE: November 10, 2025

As requested, we have reviewed the following materials:

- Township of West Orange Planning Board Application, dated May 21, 2025, with the following attachments:
 - Written statement prepared by the applicant, entitled, "Proposal and Reasons for Relief," undated
 - 200-Foot Buffer Report for Block 62, Lot 22.01, prepared by the Township of West Orange Tax Assessor, dated December 2, 2024
- Township of West Orange Site Plan / Subdivision Checklist for PB-25-04, undated;
- Township of West Orange Sustainability Checklist for PB-25-04, undated;
- Township of West Orange Planning Board Resolution for Application 24-05 (76-82 Ashland Avenue & 10 Park Avenue) granting Conditional Use, C(2) Variance, and Minor Site Plan Approval, decided on April 3, 2024, memorialized April 17, 2024;
- Property Survey prepared by Manno Surveying Inc., dated November 29, 2022;
- 8-sheet Architectural Plan set prepared by Bersa Architects, dated June 30, 2023, and revised through April 30, 2025;
- Lighting Plan prepared by Golden & Moran Engineering, LLC, Planning & Design, dated April 30, 2025;
- Minor Site Plan, Landscape and Lighting Plan prepared by Golden & Moran Engineering, LLC, Planning & Design, dated April 30, 2025;
- Planning Memorandum prepared by Nishuane Group, dated August 19, 2025; and
- Engineering Memorandum prepared by Matrix New World, dated August 22, 2025.

1. Site Description

The subject property includes Lot 22.01 of Block 62 in the Township and is located at 76-82 Ashland Avenue. The regular lot includes 126.7' of frontage along Ashland Avenue, and measures approximately 38,500 square feet / 0.9 acres in area. The property is currently developed with four (4) distinct buildings:

- One three-story brick building with an awning along the southern façade (76 Ashland Avenue and the subject of the present application, PB 25-04)
- One two-story metal building (the subject of previously approved Cannabis Cultivation application, PB 24-05)
- Along the Ashland Avenue frontage, two additional buildings: one two-story frame two-family residential dwelling (80 Ashland Avenue) and one 1-story masonry building operating as a Deli and Grocery store (78 Ashland Avenue).

North of the deli building and west of the brick building is a surface parking lot with eight (8) parking spaces. This parking lot is only accessible from Ashland Avenue, and does not provide any access to the remainder of the subject property. A second driveway is located in the western corner of the property, directly east of the dwelling at 80 Ashland Avenue.

Site visit photos taken on June 24, 2025, indicated that the remaining sections of the property are unpaved, and include broken sections of asphalt and concrete, gravel, and weeds. Further, chain link fencing separates the rear yards of the deli and dwelling from the unoccupied section of the site, with the three-story brick and two-story metal buildings. This fencing continues, to separate the subject property from the neighboring Lots 32 and 34 of Block 62.

The subject property is located within the **I-Industrial District** of the Township. Surrounding the site is a mix of neighborhood commercial, industrial, and residential uses along Ashland Avenue. Higher density industrial establishments are located along Park Avenue and Spring Street. Further, the property is located one block from the Township's Downtown Redevelopment Area along Main Street, which promotes mixed-use development and adaptive reuse principles.

2. Proposed Project:

The Applicant, Blue Violet, LLC is seeking a minor site plan and bulk variance approval to rehabilitate/renovate the existing three-story brick building on site and use it as Class 1 Cannabis Cultivation and Class 2 Cannabis Manufacturing Facility. The use is a Conditionally permitted use in the I district and applicant notes, that all the conditions of the use have been met.

The application is for a minor site plan. Per LUO section 25-4 Minor Site Plan is defined as *Shall mean any development plan of one or more lots that does not involve planned development, any new street, or the extension of any off-tract improvement, the cost of which is to be prorated pursuant to N.J.S.A. 40:55D-42; and proposes development that would require not more than five new parking spaces over and above the existing permitted spaces on the site, pursuant to the Township's zoning requirements; and proposes development of not more than 1,000 square feet of new building floor area.*

With this proposal, applicant is proposing striping of three new on street spaces. The proposal includes rehabilitation of existing three story building of ±17,341 square feet as Cannabis cultivation/ manufacturing facility and requires 19 parking spaces. There are currently no more than 8 spaces that “exist” on the site. Applicant should confirm the existing number of parking spaces on site.

According to the floor plans provided, the existing brick building has a gross floor area of approximately ±17,341 square feet. The proposed floor plans indicate that this ground level will include cannabis manufacturing and processing areas, administrative areas, a mechanical room, as well as a locker room for employees. The gross floor area of this ground level measures approximately 6,103 square feet.

The second level of the facility measures approximately 5,622 square feet and mainly includes cannabis flower and veggie rooms. The third level, measuring approximately 5,616 square feet in area, will house additional flower and veggie rooms for the cannabis product.

Alterations to the building’s existing façades include weather-sealing windows, the removal of existing skylights, the addition of new lighting fixtures, and various cosmetic changes (e.g., painting). A new staircase will be added along the rear/northern façade of the facility. Notably, the building’s existing canopy will be used to house HVAC units for the building. Surrounding the canopy will be chain link fencing atop metal fencing, reaching a collective height of **16 feet**. Further, a ground-mounted generator is proposed for the facility.

3. Previous Site Approvals

By way of background, the subject site has been part of two hearings before the Planning Board. The previous application PB 24-05, which was heard on February 28, 2024 (denied), and again on April 3, 2024 (approved) for the applicant Yerr Canna, LLC was proposed to retrofit the existing 2-story metal frame building in the southwest corner of the subject property into a Class 1 cannabis cultivation facility. The site was approved for 48 parking spaces. The conditions of approval for that previous application included 22 conditions. The approval was never finalized and the application did not receive a final resolution compliance.

The applicant for the current application of 25-04 (Blue Violet LLC) has indicated that 10 of the 22 total conditions which relate to the site (not specifically to the three-story brick building) are incorporated into this current site plan. These relevant conditions from the 24-05/Yerr Canna application are outlined below:

- Condition 9: "Applicant shall install a generator, the location of which must be included on the site plan. Applicant shall provide all necessary design specifications for such a generator, including noise data to demonstrate that the generator will comply with all applicable state and local noise codes, within 30-days of the issuance of a certificate of occupancy, and the installation of such a generator shall not be a condition of zoning compliance or occupancy; however, a generator shall be installed within 90 days of the issuance of a certificate of occupancy."
 - The submitted site plan for the current application depicts generators for both the Yerr Canna facility and the proposed Blue Violet LLC. facility, and describes each generator as a "3.6 KW natural gas emergency generator & sound attenuation." **Conformance with State and local requirements is not shown.**
- Condition 11: "The Electric Vehicle parking space must be operational from the inception of the business."
 - The submitted site plan for the current application denotes this space as an "electric vehicle charging station by others." **Applicant should confirm this shall be operational from the inception of the business.**
- Condition 12: "Applicant shall add additional light poles as may be necessary to comply with the standards of the West Orange Zoning Code and will submit a lighting plan to be approved by the Board Engineer."
 - A lighting plan has been submitted with the current application, which includes light poles to illuminate the parking area, **however as noted the plan does not comply.**
- Condition 13: "Applicant shall repave or resurface or patch the parking lot of the Property at the direction and discretion and approval of the Zoning Officer."

- The submitted site plan for the current application notes that the 16,500 surface parking lot will be “removed and reconstructed.” ***This should be confirmed, if this is reconstruction of a new parking lot.***
- Condition 14: “Applicant shall stripe the parking spaces for use by its employees and label the compact car spaces and properly designate the ADA parking space.”
 - The submitted site plan for the current application denotes ADA accessible spaces, compact spaces, and denotes a row of parking for the Yerr Canna building.
- Condition 15: “Applicant shall provide emergency vehicle striping to the parking lot pavement.”
 - A fire lane is included in the submitted site plan for the current application and notes that the “striping and text [will be] in accordance with current international fire codes.”
- Condition 16: “The seven parking spaces for the grow center shall be reserved for employee parking (including the E. V. space) and appropriate signage should be provided to that effect.”
 - Addressed in the current site plan, see Condition 14 above.
- Condition 17: “The traffic path as to two-way traffic or one-way traffic and aisle width design shall be determined by the Board Engineer and Applicant shall provide any recommended signage to that effect.”
 - The submitted site plan for the current application denotes the driveway from Ashland Avenue as a one-way driveway, and the parking lot as accommodating two-way circulation. The current plan does not describe a two-way ingress-egress across Lots 32 and 34 of Block 62. Further, the aisle widths are not articulated in the submitted plans. ***This needs to be revised.***
- Condition 18: “Deliveries and product movement from the facility shall be by the Park Avenue ingress and egress only.”
 - See comments from Condition 17 above.
- Condition 19: “Vehicles may enter from Ashland Avenue only (one way) and may enter on Park Avenue but may exit onto Park Avenue only.”
 - See comments from Condition 17 above.

A notable condition for the approved application 24-05 includes on-site parking. As the application noted that no more than 10 employees were proposed for the facility, the parking requirement became “at least one (1) total parking space per 1,000 square feet of gross floor area,” per the standards outlined in §25-24.2(o) of the Township Ordinance. For the 9,390-square-foot building, a total of 10 parking spaces are required.

Aerial of Subject Property



4. Zoning Review:

The subject site is located I (Industry) District. On the site, the applicant is proposing to convert the existing three-story brick building into both a Class 1 Cannabis Cultivator and Class 2 Cannabis Manufacturer facility. Further, the applicant is proposing to maintain site's existing two-story residential dwelling and one-story deli shop. As outlined in various sections of this memorandum, the Township's Planning Board granted approval for the conversion of the fourth building an existing two-story metal building on the site, as a Class 1 Cannabis Cultivator facility (Application 24-05). The approval was granted with 22 conditions of approval, the plan was never finalized.

With this application, the site is going to contain another Class 1 Cannabis Cultivator and Class 2 Cannabis Manufacturer facility. In total this site shall contain a total of three Cannabis Class 1 and Class 2 Licenses.

Per §25-8.12 of the Township Ordinance, within the I-District, multiple principal uses are permitted on one lot. Further, per Chapter 25, Attachment 2 of the Township's Ordinance, "Licensed Cannabis Entities" are a permitted conditional use.

Conditional Use Requirements: Licensed Cannabis Entities (§25-24.2(b)(2)(o))		
	Ordinance Requirements	Proposed
Permitted Districts	B-1, B-2, and I Districts	I District
License Requirement	The Licensed Cannabis Entity shall be required to have a Local License pursuant to Chapter 5, Section 5-34 of the Township of West Orange Municipal Code.	Proof of the license has not been provided. It is recommended that a copy of this license be provided.
Location	> 500' from the property line of any school building	> 500'
	> 500' from the property line of any house of worship	> 500'
	No Licensed Cannabis Entity shall be housed in a vehicle or any movable or mobile structure	Complies.
Parking Requirements	Cannabis Cultivator or Cannabis Manufacturer with no more than ten (10) employees shall provide at least	Applicant to confirm compliance/which spaces are assigned for the current application.

Conditional Use Requirements: Licensed Cannabis Entities (§25-24.2(b)(2)(o))		
	Ordinance Requirements	Proposed
	one (1) total parking space per 1,000 square feet of gross floor area: Proposed building at 76 Ashland Avenue: 17,341 gross square feet / 1,000 SF per space = 18 parking spaces	
Operation	No Licensed Cannabis Entity shall be allowed to operate as a Home Occupation	Complies.
Signage	Subject to the approval from either the Board with jurisdiction, under the guidelines and standards governing commercial signs as set forth within the Township Municipal Code.	No signage is proposed. Signage is not considered part of this application, if at a later time signage is proposed, applicant is required to make a separate application.
Security	A Licensed Cannabis Entity shall meet all of the required security measures as set forth in Chapter 5, Section 5-34 of the Township of West Orange Municipal Code	Applicant has not submitted any kind of security plan to confirm compliance with this requirement. This shall be submitted.
Cannabis Consumption Areas	Cannabis Consumption Areas, as defined in the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, N.J.S.A. 24:6I-31, et. seq., shall be prohibited from all Licensed Cannabis Entities.	Applicant shall confirm.

The following noted:

- a. The Applicant obtained a Conditional License dated July 13, 2022, from the State of New Jersey Cannabis Regulatory Commission (CRC) as a Class 2 Cannabis Manufacturer and a Conditional License dated July 29, 2022 for a Class 1 Cannabis Cultivator. The applicant should clarify the

status of their State license and confirm that it has not expired. A copy of all licenses shall be submitted to the Township Planning Division.

- b. The applicant shall confirm that the proposed application meets all of the requirements outlined in Chapter 5, Article VII, "Cannabis Licenses," of the Township's Ordinance. A Copy of approved local license shall be provided to the Planning Division.
- c. It appears adjacent lots, Lots 32 and 34, Block 62, is to be used for egress from the site, additionally, it is noted a shed is to be removed for Lot 32. **These two lots shall be part of the application.** Additionally, a copy of the easements shall be provided to Board Engineer and Board Attorney for approval. A circulation diagram showing the vehicle as well as truck circulation from the site should be provided.
- d. A state of operations including # of employees, hours of operations, shift timings; security operations plan, waste management plan, odor control plan, number of deliveries and other such operational details should be provided.
- e. A security Plan for the proposed facility, along with handling and delivery of materials shall be provided. Such Security Plan shall be approved by Township of West Orange Police Department.
- f. Applicant shall provide the list of materials to be stored on site including chemicals, pesticides, fertilizers, or other potentially hazardous materials that are expected to be used in the cultivation process and any repair materials along with their quantity. Location of where these materials are to be stored is also to be provided. This list shall be provided to the Township of West Orange Fire Department for their approval.
- g. Since this is rehabilitation of an existing building, applicant should confirm the building retrofitting shall meet all Fire-Sub Code Official requirements. We defer to the Building department to confirm these items. Additionally, applicant should discuss how the dust and sound shall be handled during retrofitting especially due to existing residential use on the property.

5. Site Plan Review: The following is noted:

I Industry Zone (Chapter 25 Attachment 3)			
	Ordinance Requirements	Existing	Proposed
Min. Lot Area	10,000 SF	~ 38,500 SF	No change
Min Lot Frontage/Width	No minimum	176.7'	No change
Min. Front Setback	None required	N/A	No change
Min. Side Setback	None required but 6 feet when provided 10 feet adjacent to residence	< 10 feet (Abuts residential properties to the north, along Park Avenue) (ENC)	No change (ENC)
Min. Rear Setback	30 feet	> 30 feet	No change
Max. Building Height	65 feet	TBD	No change
Max. Building Cover	60%	31.8% (V)	Unclear; applicant to confirm
Max. Impervious Cover	75%	99.5 (V)	Unclear; applicant to confirm.

ENC = Existing non-conforming condition

V = Bulk variance required(

- The calculation of Building Coverage and Impervious Coverage should be provided. Applicant should confirm if the Building Coverage includes all the four(4) buildings, further, calculations of impervious coverage should be confirmed.
- Applicant should identify what spaces shall be for the residential and the deli store on the site. How they will be identified and how will they egress out of site. Will they have to egress out of Lot 32 and 34 and do they have access to the gate to the rear of the property?

6. Landscaping and Fencing

Along the eastern façade of the building and in sections of the parking lot, planter boxes are proposed. Trees are not proposed along the street frontage. The site plans note that the existing chain link fencing which separates the rear yards of the existing dwelling and deli on the site are to remain. Additionally, new 6-foot-tall chain link fencing will be placed to separate the property from Lot 21 to the south and Lot 32 and

34 to the east. A gate will be installed to provide access from the subject property to Lots 32 and 34. The site plan drawings also denote that an existing shed on Lot 32 will be removed.

Walls and Fences (§25-8.4)			
	Ordinance Requirements	Existing	Proposed
Fence Height	Side and rear yards: 6 feet	Unclear	Maintain existing and propose new 6 feet chain link fencing
Prohibited Fence Material	The use of barbed and/or razor wire is prohibited in all districts	Unclear	Applicant to confirm; the 3D perspective shows barbed wire this should be confirmed.

The following is noted:

- All the existing and proposed landscaping on the site should be provided. The existing shrubs along the north of the existing deli building should be provided.
- Due to the proximity of these shrubs along the building and perimeter of this site, we recommend that at least two years maintenance of this planting should be required.
- The entire site that along the proposed Cannabis Use has existing and proposed chain link fence. How tall is the existing fencing that is proposed to be maintained? Per the Township Ordinance, a maximum height of 6 feet is permitted. The 3D image shows barbed wire above the fencing, this should be removed.
- The proposed HVAC units proposed atop the existing canopy are to be enclosed with 8 ft tall chain link fence atop an 8 ft tall solid metal fence. This is recommended to be removed, and a more cohesive type of visual barrier for mechanical equipment be proposed.
- With all the fencing proposed, applicant should confirm who has access to the rear of the site and front of the lot. Are the 8 parking spaces in the front of the lot reserved for particular use?
- Further it appears to the rear of the Deli building, an elevated dock is shown. With the proposed parking, will this use lose access to their loading/unloading space?

7. Architectural Plans:

- The applicant shall confirm the gross floor area of the building: the architectural drawings indicate a gross floor area of 17,341 square feet, while the site plan indicates 18,800 square feet. The drawings shall be amended accordingly.
- The applicant should provide detailed testimony on the proposed façade of the building. As it appears, the building is dilapidated shape and update to the building façade is recommended.

- c. The applicant should provide where is ADA ramp to access the building is provided, it appears ADA space is provided along the front and side of the building but no ramp is provided.
- d. A door to the norther façade of the building elevation is shown, however it appears there is not enough room to exit from there, applicant should confirm if this door is needed.
- e. There are two ground mounted generators are proposed with 6 inch pipe bollard in front of it. No fencing to provide visual buffering is proposed. Additionally, applicant should confirm if the generator meets the state sound regulation requirement, and complies with the Township's Noise Ordinance (§4-4).

8. Lighting

A total of seven (7) different exterior lighting fixtures are proposed for the subject property. Fixtures will be placed along each façade of the brick building, and light poles are proposed throughout the parking area. Further, wall-mounted fixtures are proposed on the existing two-story dwelling to illuminate the ingress-only driveway, and along the main entrance to the two-story metal building. Following are our comments on the proposed lighting:

Minimum Levels of Illumination for I District (§25-14.3)		
	Requirement	Proposed
Pedestrian Walkways	0.4 footcandles minimum throughout	> 0.4 fc
Parking Areas	1.0 footcandle minimum throughout	< 1.0 fc periodically (V)
Streets	0.06 footcandle minimum throughout	Applicant to confirm

- a. The applicant should revise the lighting plans to eliminate any light spillage on lots outside of the subject property and adjacent egress Lots 32 and 34.
- b. Lighting needs to be provided along the egress driveway from Park Avenue; this is not currently shown on the lighting plan.
- c. The applicant shall confirm compliance with the following illumination standard in §25-14.3:
 - a. Minimum street illumination for developments in the I Industry District: 0.06 fc.

9. Parking and Site Circulation

The applicant proposes to maintain the eight (8) parking spaces accessed from Ashland Avenue, and the existing circulation flow for this lot (i.e., access is not provided to the rest of the site, only to/from Ashland Avenue). One (1) of these parking spaces will become ADA accessible.

Beyond these existing spaces, a total of 30 off-street and three (3) on-street parking spaces are depicted on the proposed site plan. Eight (8) of these new off-street parking spaces, which include one (1) electric vehicle space and one (1) ADA parking space, will be reserved for the two-story metal building/Yerr Canna application. **Signage will denote these spaces as such.** Eighteen new parking spaces surround the building for the current application, which includes another ADA-accessible space and two (2) compact cars. The four (4) remaining parking spaces are located in the rear yard of the existing two-story frame dwelling, to be separated by chain link fencing from the rest of the lot. Further, fire lane striping will be located along the driveway from Ashland Avenue, in front of the metal building from the 24-05/Yerr Canna application.

The applicant proposes to maintain the second driveway from Ashland Avenue, located along its western boundary, as ingress-only. The site's proposed egress extends across Lots 32 and 34 of Block 62 and leads to Park Avenue. Access to the site along both of these driveways will be regulated by chain link fencing and gates.

Parking and Loading Space Requirements (§25-12)			
	Ordinance Requirements	Existing	Proposed
Sidewalks (§25-12.1)	5-foot-wide between any building and a parking area or drive used by the public.	N/A	None (V)
Drive Aisle Width (§25-12.1)	All driveways for two-way traffic shall be a minimum of 24 feet wide	N/A	Unclear. Applicant to confirm.
Parking Space Location (§25-12.1)	Off-street parking facilities may be placed in the front yard, provided that it is at no point closer to the public right-of-way than 1/2 the setback	< 25 feet (ENC)	No change (V)

	requirement or 50 feet, whichever is less.		
Parking Space Size (§25-12.1)	Standard size parking spaces shall have minimum dimensions of 9 feet by 18 feet	N/A	Complies.

Regulations	Requirement	Existing	Proposed
Minimum Number of Off-Street Parking Spaces* (§25-12.2)	Two-family dwelling: 1.5 spaces per 2-bedroom unit = 3 spaces + Deli (9 seats and 1,200 SF): 1 per 250 square feet of gross floor area. Food service uses such as delis, bakeries and coffee shops with on-site seating shall add 1 additional space for every 3 seats = 5 spaces + 3 additional spaces = 8 spaces + Previous Yerr Canna application for cannabis cultivation facility: 1 parking space per 1,000 SF of gross floor area: 9,390-square-foot building = 10 spaces + Current application for cannabis cultivator and manufacturer facility: 1 parking space per 1,000 SF of	N/A	38 total off-street spaces (V)*

	gross floor area: 17,341-square-foot building = 18 parking spaces = 39 total off-street spaces for the site		
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**parking compliance is required at a minimum to show compliance with conditional use parking.*

Regulations	Requirement	Existing	Proposed
Minimum Loading Spaces (§25-12.3)	Manufacturing/warehouse: Up to 15,000 square feet of gross floor area = 1 loading space Fifteen thousand to 30,000 feet = 2 loading spaces - Current application: 2 loading spaces - Yerr Canna application: 1 loading space	N/A	0 loading spaces (V)
Supplemental Parking and Loading Space Regulations (§25-12.4)	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	Does not comply (ENC)	No change (V)
Required Electric Vehicle Parking Spaces (§25-12.6)	Parking lots with less than 50 spaces: 1 make-ready parking space	N/A	1 make-ready space

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** The number of bedrooms within each residential unit, as well as the number of existing seats and square footage of the deli were provided on the submitted site plan drawings. The applicant shall provide testimony confirming these numbers.*

- a. Will there be any commercial vehicles parked on site?
- b. The applicant shall provide testimony regarding:
 - b. The frequency of deliveries expected to the site and intended location for such delivery trucks to park (no loading spaces are proposed).
- c. Will either of the gates be attended? How will access to the property be granted?
- d. The applicant shall clarify any proposed security or locking mechanisms on the gates at both the ingress-only driveway and the ingress-egress driveway through Lots 32 and 34 and onto Park Avenue.
- e. The applicant shall confirm the width of the proposed driveways and add this information to the proposed site plans. Per §25-12.1, the minimum width for two-way driveways is 24 feet. Additional variance relief may be required.
- f.

10. Waste Management Plan

The applicant should provide a detailed report on waste management on site. No outdoor trash enclosure is noted on the site plan. Detailed report should include operations of how Cannabis and non-Cannabis waste is to be removed from the site. If exterior dumpsters are proposed compliance with section 25-11.4 should be provided.

11. Variances and Waivers Required:

Bulk/"C" Variances

1. Applicant should confirm these are pre-existing non-confirming variance:

- a. **Insufficient Side Yard Setback (Chapter 25 Attachment 3)** – A minimum side yard setback of 10 feet is required when adjacent to residences, where less than 10 feet exists, and is proposed to remain.
- b. **Prohibited Parking Space Location (§25-12.1)** – Where parking spaces are not permitted within 25 feet of the public right-of-way along Ashland Avenue, parking spaces exist within this setback and are proposed to remain.
- c. **Prohibited Access Drive Location (§25-12.1)** – Where access driveways are not permitted within 5 feet of a side lot line, a driveway exists within this setback and is proposed to remain.

2. We have noted the following variances are required:

- a. **Insufficient Sidewalks (§25-12.1)** – Where 5-foot-wide sidewalks between any building and a parking area or drive used by the public are required, no sidewalks are proposed.
- b. **Insufficient Number of Parking Spaces (§25-12.2)** – Where a total of 39 off-street parking spaces is required, 38 off-street parking spaces are proposed.
- c. **Insufficient Number of Loading Spaces (§25-12.3)** – Where a total of 3 loading spaces is required, 0 loading spaces are proposed.
- d. **Insufficient Parking Area Illumination for I District (§25-14.3)** – Where a minimum illumination throughout the parking area is 1.0 footcandles (fc), less than 1.0 fc is proposed periodically.

12. Statutory Criteria:

Bulk/ "C" Relief

1. The applicant requires c-variance relief for this application. The applicant shall provide testimony that demonstrates how the request for relief may be granted based on one of the standards provided in the MLUL at N.J.S.A. 40:55D-70c. It is the applicant's responsibility to bear the burden of proof.

In order to satisfy the positive and negative criteria for each c variance enumerated above, the applicant should provide testimony that satisfies either the c(1) hardship criterion or c(2) flexible criterion as set forth in the MLUL.

- a. **Positive criteria:** There are two types of c variances - the **c(1) hardship** and the **c(2) flexible variance**.

The *c(1) hardship* criteria states that a "hardship" will occur if the variance is not granted. The hardship relates to the physical or topographical features of the property and cannot relate to financial or personal hardship. Hardship relating to property can include:

- i. Narrowness, shallowness, or irregular shape
- ii. An exceptional topographic condition
- iii. Other unique conditions or features affecting the property

The *c(2) flexible variance* states that by granting the variance, the purposes of the MLUL would be advanced by a deviation from the zoning ordinance requirement and that the benefits of granting the variance substantially outweigh the detriments.

- b. **Negative criteria:** The applicant must satisfy the two-prong test of the negative criteria;
 - i. The variance can be granted without substantial detriment to the public good; and

- ii. The variance can be granted without causing substantial detriment to the zone plan.

The applicant's testimony regarding the negative criteria should address any potential impacts that the proposed variances may have on the neighborhood, as well as how the proposed development is consistent with, or in potential conflict with, both the zoning ordinance and the Township's Master Plan.

13. Conformance with the Township's Master Plan

The Township's 2019 Master Plan Update (Reexamination Report with Plan Element Amendments) notes that, "Existing development in West Orange is generally consistent with zoning, although there are deviations due to changes in zoning that made preexisting uses nonconforming or by use variance approval" (p. 33).

Further, the 2010 [Master Plan Reexamination] further noted the need to maintain the community scale by limiting the intensity of commercial/retail, industrial and residential development to assure compatibility with existing neighborhood character (p. 12).

- c. The applicant shall provide testimony regarding the implications of deviating from the Reexamination Report's vision (i.e., proposing an intensification of parking and circulation of existing non-conforming uses on the site).