

TO: Township of West Orange Planning Board

FROM: Malvika Apte, PP, AICP, Planning Board Planner 
Langley Oudemans, Associate Planner

RE: PB Application 26-04
Planning Review # 1
111 Prospect Avenue
Block 151, Lot 17.01
Preliminary & Final Major Site Plan Approval with Bulk "C" Variances Approval

DATE: June 5, 2026

1. Materials Reviewed

As requested, we have reviewed the following materials:

- Two (2) pages of Response Letter for PB Application 2026-04 prepared by J. Michael Petry of Petry Engineering, LLC., dated May 21, 2026;
- One (1) page of Fire Hydrant Locations, undated;
- Thirty-two (32) sheets of Amended Preliminary and Final Site Plan for The Estate prepared by Petry Engineering, LLC., dated January 21, 2025 and revised through May 21, 2026;
- Eight (8) sheets of Architectural Plans dated December 19, 2025, revised through May 20, 2026;
- Three (3) sheets of Phase II Architectural Plans dated December 19, 2025, revised through May 20, 2026.
- Township of West Orange Application for the Planning Board, prepared by Orange Prospect LLC, dated March 30, 2026. Including the following exhibits:
 - Project Description for 111 Prospect Avenue prepared by FBT Gibbons LLP, dated April 2026.
 - Township of West Orange Site Plan Checklist, undated
 - Township of West Orange Tree Removal and Replacement Permit Application for 111 Prospect Avenue, prepared dated March 14, 2026
 - Corporate Ownership Disclosure for Orange Prospect LLC, undated.
 - Township of West Orange Planning Board Resolution for Application PB 25-02, memorialized on June 4, 2025.

- Township of West Orange Planning Board Resolution for Application PB-92-10, dated December 1, 1993.
- Township of West Orange Planning Board Resolution for Application PB-96-08, dated October 9, 1996.
- Township of West Orange Planning Board Resolution for Application PB-97-21, dated October 8, 1997.
- Township of West Orange Board of Adjustment Resolution for ZB-98-07 Use Variance, dated May 14, 1998.
- Eleven (11) pages of Environmental Impact Statement for The Estate at 111 Prospect Avenue, prepared by Petry Engineering, LLC, dated February 27, 2026.
- Thirty-two (32) sheets of Amended Preliminary and Final Site Plan for The Estate at 111 Prospect Avenue, prepared by J. Michael Petry, PE, PP, RA, dated December 19, 2025.
- Eight (8) sheets of Restaurant Building Architectural Plans prepared by J. Michael Petry, PE, PP, RA, dated December 19, 2025.
- Three (3) sheets of Main Building Architectural Plans prepared by J. Michael Petry, PE, PP, RA, dated December 19, 2025.
- One (1) sheet of Boundary and Topographic Map of Bow and Arrow Manor, Inc on Lots 15.03 & 17.01 of Block 151 and Lots 5 & 6 of Block 151.02, prepared by Petry Engineering, LLC., dated February 29, 2012.
- Two-hundred and three (203) pages of Stormwater Management Report for The Estate at Block 151, Lot 17.01, prepared by Petry Engineering, LLC, dated December 19, 2025.
- Two (2) pages of Soil Moving Permit Request for The Estate, prepared by Petry Engineering, LLC, undated.

2. Site Description

The subject property, identified as Block 151, Lot 17.01 in the Township tax records, is located at 111 Prospect Avenue. The property is an L-shaped corner lot fronting Woodland Avenue and Prospect Avenue. The site has approximately 1,375 feet of frontage on Prospect Avenue and 166.61 feet of frontage on Woodland Avenue. Overall, the property measures approximately 8.29 acres (361,112.4 SF) in area. The site is developed with several structures and site improvements, which are remnants of the property's past uses as a catering/banquet hall, but site is currently vacant.

The subject property is in the B-2 General Business Zone and sits across the street from Eagle Rock Reservation, which is in the Conservation Overlay within the R-1 Residential Zone, where single family-dwellings on 80,000 square foot lots are permitted. The subject property and the neighboring property to

the north are both within the B-2 Zone. The R-6 Zone, where single-family dwellings on 6,000 square foot lots are permitted, sits on the western side of the subject property, and the R-1 Zone sits to the south of the subject property. Residential properties with single-family dwellings abut the subject property along the entire western edge. The neighboring property in the B-2 Zone includes a hotel, and further north on Prospect Avenue sits the Montclair Golf Club.

3. Proposed Project Review:

- i. The Applicant is seeking amended preliminary and final site plan approval for a previously approved application. This proposal includes modifications to the rear parking area, circulation improvements, updated grading, drainage, landscaping, and lighting, Phase Two building improvements, and related relief consisting of a Soil Removal Permit, Stormwater Permit, Tree Removal & Replacement Permit, and an extension of time to install replacement trees. The amended improvements include renovations of portions of the existing banquet hall and restaurant buildings, reconstruction of the rear parking lot and related site features, revised circulation and walkways, updated grading and drainage, and related landscaping improvements. A summary of the proposed changes since the previous application's approval is outlined below:
- ii. Banquet Area:
 - a. Courtyard improvements to be demolished and reconstructed at higher elevation to match the first floor
 - b. Fountain wall to be reconstructed to match new elevation
 - c. Interior brick and paver walkways to be removed and replaced
 - d. Fountain in the rear area to be removed and reconstructed
 - e. Addition of a covered patio at the first-floor level facing rear yard area
 - f. Minor renovations proposed to the existing interior layout
- iii. Restaurant Area:
 - a. Removal of the flagstone patio, greenhouse, and gazebo
 - b. Construction of a new gazebo
 - c. Removal of the paver patio
 - d. Removal and reconstruction of brick and paver walkways
 - e. Removal of fountains in the rear area
 - f. Construction of landscaped wall in rear area surrounding a proposed turf area
 - g. Two proposed additions on the north and south sides of the building. The additions are both single stories.
 - i. The addition on the north side of the building includes a 1,160 SF dining area with an outdoor patio and landscaped area.

- ii. The addition on the south side of the building includes a 1,000 SF lounge, which will replace the existing greenhouse and breakfast nook.
- iii. The revised architectural plans for the restaurant (dated 5-20-2026) include on sheet A-103 and area between the storage room and balcony which is "open to below." ***Applicant to provide information on the second-floor space. It appears that the balcony is inaccessible from the other second floor spaces.***
- h. There appears to be a residential unit on the second floor of the restaurant, which is not a permitted use in the B-2 Zone. ***Applicant to confirm if there are residential uses on the property, and if not, Applicant to provide testimony regarding the use of second-floor space.***
- iv. Driveway and Parking Areas:
 - a. Two entrances/exits to the site provide access from Prospect Avenue via a loop driveway through the site. Proposal includes removal of pavers, regrading, and reconstruction of the paver driveway.
 - b. Removal and reconstruction of block curb throughout.
 - c. Removal of fountains and construction of new landscaped water features.
 - d. Removal of shed.
 - e. Removal of landscaped islands, reconstruction and placement of islands.
 - f. Construct bituminous parking lot in Lots B and C.
 - g. Install EV charging stations.
 - h. Reconstruction of depressed curb.
- v. Drainage
 - a. Removal of inlets and trench drain from driveway area.
 - b. Reconstruction of drainage systems in Parking Lots B and C.
 - c. Reconstruction of drainage systems in the banquet building's courtyard areas.



Subject Site Aerial
Source: NJ Geo Web

4. Zoning Review

i. **Proposed Use:**

- a. The subject property is in the B-2 General Business district where restaurants are permitted principal uses.
- b. Applicant is proposing to increase the previously approved (Resolution PB 25-02) occupancy of 1515 persons to 1563 persons.
- c. **Applicant shall provide a statement of operations including number of employees, hours of operations, shift timings, number of deliveries and other such operational details.**
- d. Supplemental provisions for all districts (§ 25-8.1b): Off-street parking abutting a residential district requires a minimum distance of 10 feet from the property line. The proposal includes off-street parking, which directly abuts the property line of a residential district (the hotel lot), but the previous approvals include approval for this use.

ii. **Corner Lot:**

- a. As per § 25-4b of the Land Use Regulations, since the subject property is a corner lot and access to the main entrance is on Prospect Avenue, the Prospect Avenue frontage is considered the front yard and the Woodland Avenue frontage is the side front yard.
- b. The side yard is considered to be the property edge that is shared with the hotel.
- c. As per the previous approvals, the remaining yards are all considered rear yards.

iii. **Previous Site Approvals:**

- a. The most recent approval, for which this application is an amendment to, was memorialized by resolution for PB 25-02 on June 4, 2025. This included preliminary and final major site plan approval and bulk variance relief with waivers. The approved variance was for an impervious coverage of 60.53% instead of 60%, and the waivers were for checklist items 22 and 52.
- b. In December 1993, under resolution PB-92-10, the site was the subject of conditional approval for an amended site plan and minor subdivision application, and the applicant at the time was granted variances for lot coverage, setback, and parking.
- c. In October 1996, under resolution PB-96-08, the site received approval for amended site plan for the 1,404-person restaurant/banquet facility and neighboring hotel, including the consolidation of all the lots so that there was just one lot for the hotel and one lot for the "Manor Restaurant."
- d. In October 1997, the Planning Board approved an extension of the site plan approval, subdivision, variances, and conditional uses previously granted in PB-92-10 and PB-96-08.

- e. In 1998, under resolution ZB-98-07, the Zoning Board approved a use variance for a conditional hotel use which did not meet the maximum impervious coverage limits, a “d” variance for height, and “c” variances for side yard setback contiguous to a residential zone of 50ft instead of 75ft, parking for 96 instead of 122 spaces, side yard buffer of 48.4ft and rear yard buffer of 73.82ft instead of 75ft, permitted parking in the front yard of the hotel, entrance and exit setbacks for the driveway to be 25ft instead of 50ft, freestanding sign approval, and minor subdivision approval for the restaurant to be on one property and a hotel on the other.
 - f. In August 1999, under resolution ZB-99-10, the Zoning Board approved an extension of time for obtaining a building permit and for completing construction for the previously granted site plan approval.
 - g. In May 2000, under resolution ZB-00-05, the Zoning Board approved the modification of previously approved site plan (1998) to include modernization upgrades which required a “d” height variance for a three-story, 39 ft 4in building and preliminary and final site plan approval with nine (9) “c” variances. The variances included maximum lot coverage for both the hotel and restaurant properties, steep slope maximum density of 97 units instead of 86.2, restaurant setback to residential district of 55 ft instead of 125 ft, side yard setback contiguous to a residential district of 55 ft instead of 75 ft, buffer strips in all non-residential districts of 55 ft instead of 75ft, buffer strip in all non-residential districts of 28 ft on the side and 65.05 in the rear instead of 75 ft in addition to the required setback, parking the front which is not permitted, driveway distance to residential area of 23 ft instead of 50 ft, and 60 degree angle parking aisle width of 16 ft instead of 18ft.
 - h. In January 2013, under resolution PB-12-31T, the Technical Review Committee of the Planning Board approved the technical site plan for the banquet/restaurant facility to complete interior renovations and construct an elevator. This application included no variances.
- iv. **Easements**
- a. Easements exist between neighboring properties on Block 151.03, Lots 5 and 6 for encroachments
 - b. Electric and Telephone easement (June 1974)
 - c. Sanitary sewer, storm drain, and utility facilities easement (December 1995)
 - d. 10-foot, 12-foot, and 14-foot-wide reservations for future road widening (1997)
 - e. Cross-access easement for a shared parking area (Parking Lot D) by the hotel and the banquet/restaurant property (2002)

- f. Sanitary sewer easement and water utility easement for use by Lot 15.03 (2002)
- v. **Bulk Standards:**
- a. The following table notes the bulk regulations that are permitted in the zone and the proposed site plans compliance/non-compliance with the same.
 - b. The following changes to the bulk standards were made since the previous approval:
 - i. Reduction of the non-conforming maximum lot coverage from 60.53% to 59.76%, bringing it in conformance with the 60% maximum permitted coverage requirement.
 - ii. Increase in the building coverage from 13.46% to 14.69%.
 - iii. Increase in the number of parking spaces from 347 on-site spaces to 362 on-site spaces. The shared spaces with the neighboring hotel have remained the same at 124 spaces.

Bulk Standards for Restaurants in B-2 General Business Zone			
	Ordinance Requirements	Previously Approved (5/7/2025)	Proposed
Min. Lot Area (Chapter 25 Attachment 3) (square feet)	10,000	361,261	No Change
Min Lot Frontage/Width (Chapter 25 Attachment 3) (feet)	No minimum	166.61	No Change
Min. Front Setback (Chapter 25 Attachment 3) (feet)	30	<u>Prospect Ave:</u> 112.4	No Change
Minimum Side Front Yard-Corner Lot (Chapter 25 Attachment 3) (feet)	25	<u>Woodland Ave:</u> 489.4	No Change
Min. Side Setback (Chapter 25 Attachment 3) (feet)	10 + 10	<u>Hotel:</u> 352.8	No Change

Min. Rear Setback (Chapter 25 Attachment 3) (feet)	30	<u>West Side Yard</u> : 129* <u>South Side Yard</u> : 0 (ENC)	No Change (ENC)
Accessory Setback (feet)	<u>Residential District</u> : 10	0 (south)	No Change (ENC)
	<u>Front Yard</u> : 20	0	No Change (ENC)
	<u>Principal Building</u> : 15	45	No Change
	<u>Property Line</u> : 5	0	No Change (ENC)
Max. Building Height (Chapter 25 Attachment 3)	35ft	<u>Banquet Hall</u> : Roof Peak = 31.59 Top of Dome = 37.05 Top of Ball = 47.72	No Change (ENC)
		<u>Restaurant</u> : 24.5	No Change
	2 ½ Stories	<u>Banquet Hall</u> : 2 Stories	No Change
		<u>Restaurant</u> : 2 stories	No Change
Max. Building Cover (Chapter 25 Attachment 3)	40%	13.46%	14.69%
Max. Impervious Cover (Chapter 25 Attachment 3)	60%	60.53%	59.76%

ENC = Existing Non-Conforming Condition

*The other western side yard to the south does not include any structures.

5. Site Plan Review

A. Landscaping and Fencing:

i. Trees:

- a. The tree replacement plan proposes the removal of 247 trees with DBH sizes between 2.5 and 22 inches. In addition, 25 supplemental trees are proposed to be removed for sidewalk construction, totaling 272 trees. Based on the size of these trees and the requirements of § 28-8, the Applicant is required to plant 229 trees with a DBH of 2.5 inches and 97 trees with a DBH of 4 inches, all of which must be a minimum of 6 feet in height.
- b. The tree replacement plan proposes 251 thuja green giants with a height between 6 and 8 feet, 30 red maples with a DBH of 4 inches, 37 little leaf lindens with a DBH of 4 inches, and 30 thornless honey-locusts with a DBH of 4 inches. The total number of replacement trees is 348.

- c. In parking areas with 30 or more parking spaces, there shall be a minimum of one tree plus ground level planting for each 10 parking stalls, which may be provided within and/or on the perimeter of the parking area (§25-12.1o). As part of this application, the applicant is proposing the construction of 269 parking spaces, requiring 27 trees and ground level plantings in these parking areas. The 27 trees are required in addition to the trees required for a tree removal and replacement permit. **We defer to Township Forester to confirm compliance with requirements.**
 - i. Parking Lot C includes 92 trees within and directly surrounding the lot.
 - ii. Parking Lot D includes 20 existing trees within the parking lot and an additional 10 trees proposed on the edge of the lot.
- ii. Steep Slopes:
 - a. The property includes steep slopes on the edges of the property, which are outside of the areas of the site which are being disturbed. This is compliant with the steep slope ordinance (§25-28).
 - b. A steep slope map has been provided as part of the Site Plan (dated 12-19-2025) on sheet SS-1.
- iii. Community Garden:
 - a. A community garden is proposed in the rear area of the two-story restaurant building.
 - b. The grounds will include separate areas for sun-loving and shade-loving herbs and vegetables along with additional ground planting beds for larger vegetables.
 - c. The proposal includes two hose bibs.
 - d. Notes on the site plan include information on who will be permitted access to and use of the community garden.
- iv. Buffer Strips in Non-Residential Districts (§25-11.3):
 - a. The western property line represents the boundary between a nonresidential district and a residential district; therefore, a buffer strip is required.
 - b. An existing buffer of trees and hedges is present between the uses and varies in width from 0ft to over 60ft. Where the buffer does not meet the width requirements represents an **existing nonconforming condition (ENC)**, which was approved in previous applications.
- v. Gazebo
 - a. A reconstructed gazebo is proposed in the rear yard area behind the restaurant.
 - b. Its location is outside of the 30 ft rear yard setback line, but it intersects the 50ft residential buffer line. **Applicant should consider an adjusted placement of the gazebo in order to maintain the 50ft residential buffer, otherwise a bulk variance is required (V).**

vi. Walls

- a. Several landscape walls are proposed throughout the site, but no details are provided regarding height or material. ***Applicant to provide details for the landscape walls.***

Walls and Fences			
	Ordinance Requirements	Existing	Proposed
Walls & Fences (§25-8.4a)	Walls and fences which are not more than 50% solid are permitted anywhere on the property provided they are not higher than four feet	-	<i>Applicant to provide details on proposed walls.</i>
Parking Area Screening (§25-12.1e)	Any parking area shall be screened on any side which adjoins or faces premises situated in any residence district by a fence, wall, berm, evergreen or hedge maintained in good condition as required.	-	Screening provided between residential use by evergreen trees and hedges

B. Parking and Site Circulation:

- i. The entire site includes four parking lots labeled A through D. Parking Lots B and C are included in this application.
- ii. Demolition includes removal of existing pavers, driveway islands, block curbs, and drainage features in order to regrade the driveway, reconstruct the pavers, and install new landscape elements.
- iii. The driveway on Prospect Ave, which connects to Lots B and C, is proposed to be a 24-foot-wide loop drive constructed of pavers. There are two entrances/exits to this driveway on Prospect Avenue. ***Applicant to confirm that the driveway has a two-way circulation pattern.***
- iv. The parking lot areas will be a reconstructed bituminous lot.
- v. The Site Plan includes the minimum required parking noted under the Parking Requirements section of the Site Data Chart on the coversheet. This notes that Resolution PB 96-08 established a minimum parking requirement of 435 spaces; however, this does not match what is written in the resolution. Resolution PB-96-08 indicates that the parking was increased from 95 to 96 spaces. The Applicant received site plan approval in Resolution 25-02, which included approval of 471 parking spaces (including EV credits.) ***Clarification is needed regarding the required number of parking spaces and the previous approvals granted. Applicant to provide testimony.***

- a. According to the requirements in § 25-12.2b, the minimum required parking for restaurant, fast food restaurant, bar, cabaret and catering facilities is 1 for each 3 seats or stools or 1 for each 45 square feet of floor area available to patrons, whichever requirement is greater.

Applicant to confirm if the proposed number of spaces is based on this requirement.

- vi. The proposed parking lots include 81 employee parking spaces in Lot A, 269 customer parking spaces in Lots B and C, and 124 spaces as part of the shared parking area with the neighboring hotel in Lot D. This includes 10 standard EV spaces, 2 ADA accessible EV spaces, and 6 ADA spaces, 2 of which are van accessible.
- vii. The location of the EV spaces is subject to approval by the fire department.
- viii. Each publicly accessible EVSE space shall be located at a parking space that is identified by green painted pavement and/or curb markings, a green painted charging pictograph symbol, and appropriate signage. ***Applicant to provide information regarding EV signage. Signage should comply with § 25-12.6f3 to ensure that EV spaces are only to be occupied by EV vehicles which are connected to the EVSE.***
- ix. The total spaces provided on the property, including the new spaces proposed in this application, are 474 spaces. Based on the requirements for EV spaces, Applicant must provide EV for 4% of the parking. This would require a total of 19 EV spaces, one of which is ADA accessible. Since this application is only including 269 spaces, the following tables detail the required EV spaces. ***Applicant to confirm the number of existing EV spaces in order to assess compliance with EV requirements.***
- x. No bicycle parking was proposed as part of this application. ***Applicant to provide information on any micromobility spaces provided.***

Parking and Loading Space Requirements §25-12			
	Ordinance Requirements	Existing	Proposed
Minimum Number of Off-Street Parking Spaces (§25-12.2)	<u>Restaurant and Catering Facilities:</u> 1 for each 3 seats or stools or 1 for each 45 square feet of floor area available to patrons, whichever requirement is greater. <i>Resolution PB25-02 approved 471 spaces, including EV credits.</i>	-	<u>Lots B and C:</u> 269 (Total spaces: 486, including EV credit) <i>Applicant to provide information to confirm compliance</i>
General Provisions for Off-Street	Off-street parking surfaced with asphalt, bituminous, or cement binder and graded to dispose of all surface water.	Bituminous parking lot	Bituminous parking lot

Parking and Loading Space Requirements §25-12			
	Ordinance Requirements	Existing	Proposed
Parking (§25-12.1)	Perimeter of all parking areas and the edges of all entrance and exit drives shall be enclosed with a concrete or granite block curb at least six inches above the paving surface.	Concrete and granite block curb	Concrete and granite block curb
	Parking spaces clearly marked showing parking arrangement and traffic direction.	-	Applicant to confirm traffic direction.
	All parking areas shall be so designed that vehicles are not compelled to back directly onto a public right-of-way.	Complies	Complies
	Service Aisle Standards: 90-degree angle parking = 24' aisle width. Two-way.	-	24' drive aisle Applicant to confirm two-way direction
	Parking area entrance/exit at least 50' from residential district	23 ft	23 ft (ENC: ZB-00-05)
	Standard size parking spaces shall have minimum dimensions of 9 feet by 18 feet	-	9' x 18'
Length of Parking Row (§25-12.1)	The maximum length of a single row of parking spaces shall be 20 spaces, at which point a landscaped area with a minimum width of eight feet shall be provided	-	Longest parking row = 26 spaces (V)

V = Bulk variance required

ENC = Existing Non-Conforming Condition

Electric Vehicle Parking Requirements			
	Ordinance Requirements	Existing	Proposed
Required Electric Vehicle Parking Spaces (§25-12.6)	Install at least 4% of the total parking spaces as Make-Ready parking spaces, at least 5% of which shall be accessible for people with disabilities, if there will be more than 150 off-street parking spaces	Applicant to clarify how many EV spaces are existing	12 EV Spaces; 2 ADA accessible EV spaces

Electric Vehicle Parking Requirements			
	Ordinance Requirements	Existing	Proposed
	(269 spaces proposed = 11 EV spaces required, 1 ADA EV space required)		
	Each EVSE or Make-Ready parking space that is not accessible for people with disabilities shall be not less than 9 feet wide or 18 feet in length.	-	EV parking spaces: 9' x 18'

C. Lighting:

- i. A total of four (4) different exterior lighting fixtures are proposed.
- ii. Fixture P-1 is a pole-mounted fixture with a mounting height of 12ft and is proposed in the patio area of the banquet hall and restaurant.
- iii. Fixture P-2 is a pole-mounted fixture with a mounting height of 15ft and is proposed along the street-facing side of the parking area.
- iv. Fixture P-3 is a pole-mounted fixture with a mounting height of 15ft and is proposed in the interior areas of the parking lots.
- v. Fixture D is a recessed ceiling-mounted fixture proposed at the porte-cochere.
- vi. Lighting ordinance requires under standards for Duration of Illumination (§25-14.1.1e) that "provision shall be made for the reduction in the intensity of illumination to the minimum needed for security purposes when the facility is not in operation." **Applicant to provide information regarding lighting when facility is closed and which light fixtures, if any, will remain on after operating hours.**
- vii. Lighting is not shown for the entire property line. **Applicant to confirm that illumination levels at the residential property lines do not exceed 0.3 FC.**

Illumination for B-2 District		
	Requirement	Proposed
Min. Illumination at Pedestrian Walkways (§25-14.3)	0.9 footcandles	Walkways between banquet hall and restaurant: Min. 0.5 FC (W)
Min. Illumination at Parking Areas (§25-14.3)	2.0 footcandles	Min. 1.2 FC (W)

Min. Illumination at Streets (§25-14.3)	1.2 footcandles	Min. 1.0 FC (W)
Max. Illumination at Property Lines (§25-14.1d)	0.5 footcandle or 0.3 footcandle abutting residential use	0.0 FC (for property lines shown)
Max. Height of Wall-Mounted Fixture (§25-14.1c)	18 ft above normal grade	12-15 ft

W = Waiver Required

D. Signage

- i. The site plans show a sign being relocated at the driveway entrance. We are not in receipt of sign details. ***Applicant to provide details of the signage including placement and size in order to assess compliance with requirements.***

Signage (§25-15.3C2)			
	Requirement	Existing	Proposed
Freestanding Signs	Located in the front yard	-	Front yard
	Setback 10 feet from front property line, 25 feet from side property line	-	<i>Applicant to provide</i>
	Maximum area 50 square feet	-	<i>Applicant to provide</i>
	Minimum height of 8 feet and maximum of 16 feet above the ground	-	<i>Applicant to provide</i>
	Maximum width of 6 feet including support structure	-	<i>Applicant to provide</i>

6. 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